

MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Court Docket Number Oxf 21-412

J.P. Morgan Acquisition Corp.

Plaintiff-Appellant

v.

Camille J. Moulton

Defendant-Appellee

ON APPEAL FROM SOUTH PARIS DISTRICT COURT

Docket No. SOPDC-RE-19-02

REVISED JOINT APPENDIX

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DISTRICT COURT
SOUTH PARIS
Docket No SOPDC-RE-2019-00002

JP MORGAN ACQUISITION CORP - PLAINTIFF
C/O CARRINGTON MRTG SRVC LLC 1600 SOUTH DOUGLASS RD
ATLANTA GA 30339

DOCKET RECORD

Attorney for: JP MORGAN ACQUISITION CORP
LEONARD F MORLEY JR - WITHDRAWN 12/28/2020
KORDE & ASSOCIATES PC
707 SABLE OAKS DRIVE STE 250
SOUTH PORTLAND ME 04106

Attorney for: JP MORGAN ACQUISITION CORP
WILLIAM FOGEL - RETAINED 12/14/2021
WILLIAM A FOGEL LAWYER
477 CONGRESS ST 5TH FLOOR
PORTLAND ME 04101

Attorney for: JP MORGAN ACQUISITION CORP
CARRIE FOLSOM - RETAINED 12/28/2020
KORDE & ASSOCIATES PC
707 SABLE OAKS DRIVE STE 250
SOUTH PORTLAND ME 04106

vs

CAMILLE J MOULTON - DEFENDANT
52 MORRILL STREET
BUCKFIELD ME 04220

Attorney for: CAMILLE J MOULTON
KENDALL ALEXANDER RICKER - RETAINED 09/13/2021
BOOTHBY PERRY LLC
22 SCHOOL HOUSE HILL RD 105
PO BOX 216
TURNER ME 04282

Filing Document: COMPLAINT Minor Case Type: FORECLOSURE
Filing Date: 01/24/2019

Docket Events:

01/25/2019 FILING DOCUMENT - COMPLAINT FILED ON 01/24/2019

01/25/2019 Party(s): JP MORGAN ACQUISITION
CORP
ATTORNEY - RETAINED ENTERED ON 01/24/2019

Plaintiff's Attorney: LEONARD F MORLEY JR

01/25/2019 CERTIFY/NOTIFICATION - CLERK CERTIFICATE ISSUED ON 01/25/2019
SUZANNE BOUCHER , ASSOCIATE CLERK

02/05/2019 Party(s): CAMILLE J MOULTON
RESPONSIVE PLEADING - ANSWER FILED ON 02/05/2019

SOPDC-RE-2019-00002
DOCKET RECORD

02/05/2019 MEDIATION - FIRST MEDIATION REQUESTED ON 02/05/2019

02/05/2019 TRANSFER - TEMPORARY TRANSFER GRANTED ON 02/05/2019
 LEWISTON DISTRICT COURT FDP

02/05/2019 CASE STATUS - REFERRED FORECLOSURE DIV PROJ ON 02/05/2019
 LEWISTON DISCTRICK COURT FDT

02/05/2019 TRANSFER - TEMPORARY TRANSFER REQUESTED ON 02/05/2019

02/12/2019 MEDIATION - INFORMATIONAL SESSION SCHEDULE OTHER COURT ON 03/13/2019at 08:30 a.m. in Room No.

Receipts

01/25/2019	Misc Fee Payment	\$200.00	paid.
01/25/2019	Misc Fee Payment	\$175.00	paid.
01/25/2019	Misc Fee Payment	\$5.00	paid.
09/13/2021	Misc Fee Payment	\$225.00	paid.
12/15/2021	Misc Fee Payment	\$175.00	paid.

A TRUE COPY

ATTEST: _____
 Clerk

in Room No. 4
LEWDC

02/12/2019 MEDIATION - INFORMATIONAL SESSION NOTICE SENT ON 02/12/2019

02/12/2019 MEDIATION - FIRST MEDIATION SCHEDULE OTHER COURT ON 03/13/2019 at 09:00 a.m. in Room No. 10
LEWDC

02/26/2019 Party(s): CAMILLE J MOULTON
SUMMONS/SERVICE - CIVIL SUMMONS SERVED ON 01/29/2019

02/26/2019 Party(s): CAMILLE J MOULTON
SUMMONS/SERVICE - CIVIL SUMMONS FILED ON 02/19/2019

02/28/2019 Party(s): JP MORGAN ACQUISITION
CORP
OTHER FILING - OTHER DOCUMENT FILED ON 02/27/2019
FORECLOSURE MEDIATION INFO FROM PLAINTIFF

03/19/2019 Party(s): CAMILLE J MOULTON
OTHER FILING - OTHER DOCUMENT FILED ON 03/13/2019
DEFENDANT'S FORECLOSURE MEDIATION INFO

03/19/2019 MEDIATION - INFORMATIONAL SESSION HELD ON 03/13/2019

03/19/2019 MEDIATION - FIRST MEDIATION HELD ON 03/13/2019

03/19/2019 MEDIATION - MEDIATION REPORT UNFINISHED ON 03/13/2019
SONIA BUCK INTERIM REPORT
SCHEDULE NEXT MEDIATION DATE AFTER MAY 13, 2019

04/23/2019 MEDIATION - SECOND MEDIATION SCHEDULE OTHER COURT ON 05/15/2019 at 03:15 p.m. in Room No. 10
LEWDC

04/23/2019 MEDIATION - SECOND MEDIATION NOTICE SENT ON 04/23/2019

05/20/2019 MEDIATION - SECOND MEDIATION HELD ON 05/15/2019

05/20/2019 MEDIATION - MEDIATION REPORT UNFINISHED ON 05/15/2019
LLIAM HARRISON INTERIM REPORT
NEXT MEDIATION SCHEDULED FOR AUGUST 2019

07/24/2019 MEDIATION - SUBSEQUENT MEDIATION SCHEDULE OTHER COURT ON 08/20/2019 at 11:00 a.m. in Room No. 1

in Room No. 10

LEWDC

07/24/2019 MEDIATION - SUBSEQUENT MEDIATION NOTICE SENT ON 07/24/2019

08/20/2019 MEDIATION - SUBSEQUENT MEDIATION HELD ON 08/20/2019

08/20/2019 MEDIATION - MEDIATION REPORT UNRESOLVED ON 08/20/2019
LLIAM HARRISON FINAL REPORT
RETURN TO DOCKET, SCHEDULING ORDER TO ISSUE

08/21/2019 TRANSFER - TEMPORARY TRANSFER RECVD BY ORIG COURT ON 08/21/2019
SCHEDULING ORDER TO ISSUE, RETURN TO DOCKET

08/22/2019 ORDER - SCHEDULING ORDER ENTERED ON 08/21/2019
SUSAN ORAM , DISTRICT COURT CHIEF JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT.
COPIES TO PARTIES/COUNSEL FORECLOSURE SCHEDULING ORDER

08/22/2019 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 10/31/2019

11/15/2019 Party(s): JP MORGAN ACQUISITION
CORP
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 11/14/2019

11/19/2019 HEARING - PRETRIAL/STATUS SCHEDULED FOR 02/18/2020at 08:30 a.m.
NOTICE TO PARTIES/COUNSEL

11/19/2019 HEARING - PRETRIAL/STATUS NOTICE SENT ON 11/19/2019

02/19/2020 HEARING - PRETRIAL/STATUS HELD ON 02/18/2020
TAMMY HAM-THOMPSON , JUDGE

02/19/2020 ORDER - PRETRIAL/STATUS ENTERED ON 02/18/2020
TAMMY HAM-THOMPSON , JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT.
COPIES TO PARTIES/COUNSEL
30 MINS TRIAL, NEED 90 DAYS NOTICE

03/11/2020 TRIAL - BENCH SCHEDULED FOR 05/15/2020at 09:30 a.m.

03/11/2020 TRIAL - BENCH NOTICE SENT ON 03/11/2020

04/15/2020 TRIAL - BENCH CONTINUED ON 04/10/2020
NANCY CARLSON , JUDGE

04/15/2020 Party(s): JP MORGAN ACQUISITION
CORP
MOTION - MOTION TO CONTINUE FILED ON 04/06/2020

04/15/2020 Party(s): JP MORGAN ACQUISITION
CORP
MOTION - MOTION TO CONTINUE GRANTED ON 04/10/2020
NANCY CARLSON , JUDGE
COPIES TO PARTIES/COUNSEL FOR 60 DAYS

10/29/2020 Party(s): JP MORGAN ACQUISITION
CORP
MOTION - MOTION STAY OF PROCEEDINGS FILED ON 10/27/2020

12/03/2020 Party(s): JP MORGAN ACQUISITION
CORP
MOTION - MOTION STAY OF PROCEEDINGS GRANTED ON 12/01/2020
TAMMY HAM-THOMPSON , JUDGE
COPIES TO PARTIES/COUNSEL STAY EXTENDED THRU 12/31/20. ALL
DEADLINES ARE EXTENDED TO 90 DAYS AFTER EXPIRATION OF STAY (3/31/21)

01/19/2021 Party(s): JP MORGAN ACQUISITION
CORP
OTHER FILING - ENTRY OF APPEARANCE FILED ON 12/28/2020
ATTY FOLSOM OBO PL

01/19/2021 Party(s): JP MORGAN ACQUISITION
CORP
ATTORNEY - RETAINED ENTERED ON 12/28/2020

Plaintiff's Attorney: CARRIE FOLSOM

01/19/2021 Party(s): JP MORGAN ACQUISITION
CORP
OTHER FILING - NOTICE WITHDRAWAL OF COUNSEL FILED ON 12/28/2020
OF ATTY MORLEY

01/19/2021 Party(s): JP MORGAN ACQUISITION
CORP
ATTORNEY - WITHDRAWN ORDERED ON 12/28/2020

Plaintiff's Attorney: LEONARD F MORLEY JR

03/05/2021 Party(s): JP MORGAN ACQUISITION
CORP
MOTION - OTHER MOTION FILED ON 03/05/2021
MTN TO EXTEND STAY AND MTN TO EXTEND DEADLINES

04/08/2021 Party(s): JP MORGAN ACQUISITION
CORP
MOTION - OTHER MOTION GRANTED ON 04/08/2021
MTN TO EXTEND STAY AND MTN TO EXTEND DEADLINES
STAYED TIL JUNE 30, 2021 AND SO DEADLINES TO NO SOONER THAN 9/30
IS GRANTED

09/13/2021 Party(s): CAMILLE J MOULTON
ATTORNEY - RETAINED ENTERED ON 09/13/2021

Defendant's Attorney: KENDALL ALEXANDER RICKER

09/13/2021 Party(s): CAMILLE J MOULTON
OTHER FILING - ENTRY OF APPEARANCE FILED ON 09/13/2021
ATTY RICKER OBO DEF

09/13/2021 Party(s): CAMILLE J MOULTON
MOTION - OTHER MOTION FILED ON 09/13/2021
DEF'S MTN IN OPPOSITION TO PLFF'S MTN TO DISMISS

09/13/2021 Party(s): CAMILLE J MOULTON
MOTION - MOTION SUMMARY JUDGMENT FILED WITH AFFIDAVIT ON 09/13/2021
WITH MEMO OF LAW AND STATEMENT OF MAERICAL FACTS

09/13/2021 Party(s): CAMILLE J MOULTON
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 09/13/2021

10/19/2021 Party(s): JP MORGAN ACQUISITION
CORP
OTHER FILING - OPPOSING MEMORANDUM FILED ON 09/29/2021
OPPOSITION TO DEF'S MTN FOR S/J

10/19/2021 Party(s): JP MORGAN ACQUISITION
CORP
OTHER FILING - OTHER DOCUMENT FILED ON 09/29/2021
PLFF'S OPPOSING STATEMENT OF MATERIAL FACTS AND STATEMENT OF ADDITIONAL
MATERIAL FACTS

10/19/2021 Party(s): CAMILLE J MOULTON
RESPONSIVE PLEADING - RESPONSE FILED ON 10/12/2021
DEF'S REPLY TO PLFF'S OPPOSITION TO DEF'S MTN FOR S/J

10/19/2021 Party(s): JP MORGAN ACQUISITION
CORP
RESPONSIVE PLEADING - RESPONSE FILED

ON 10/14/2021

PLFF'S REPLY TO DEF'S OBJECTIONS TO PL'S DENIAL OF DEF'S STATEMENT OF
MATERIAL FACT

11/24/2021 Party(s): JP MORGAN ACQUISITION
CORP

MOTION - MOTION TO DISMISS FILED ON 08/23/2021
WITH MEMORANDUM OF LAW, DRAFT ORDER, NOTICE OF HEARING

11/24/2021 Party(s): JP MORGAN ACQUISITION
CORP

MOTION - MOTION TO DISMISS DENIED ON 11/24/2021
TAMMY HAM-THOMPSON , JUDGE
COPIES TO PARTIES/COUNSEL

11/24/2021 Party(s): CAMILLE J MOULTON

MOTION - MOTION SUMMARY JUDGMENT GRANTED ON 11/24/2021
TAMMY HAM-THOMPSON , JUDGE
COPIES TO PARTIES/COUNSEL

11/24/2021 FINDING - JUDGMENT DETERMINATION ENTERED ON 11/24/2021

TAMMY HAM-THOMPSON , JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT.
COPIES TO PARTIES/COUNSEL

ORDER - SUMMARY JUDGMENT ENTERED ON 11/24/2021

TAMMY HAM-THOMPSON , JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT.
COPIES TO PARTIES/COUNSEL JUDGMENT FOR DEF , SHE HOLD
TITLE TO REAL PROPERTY AT ISSUE, UNEMCUMBERED BY MORTGAGE OR PROMISSORY
NOTE, DEF AWARDED ATTY'S FEES AND COSTS.

Judgment entered .

11/24/2021 FINDING - FINAL JUDGMENT CASE CLOSED ON 11/24/2021

12/15/2021 Party(s): JP MORGAN ACQUISITION
CORP

APPEAL - NOTICE OF APPEAL FILED ON 12/14/2021

12/15/2021 Party(s): JP MORGAN ACQUISITION
CORP

OTHER FILING - ENTRY OF APPEARANCE FILED ON 12/14/2021
ATTY FOGEL OBO PLFF

12/15/2021 Party(s): JP MORGAN ACQUISITION
CORP

ATTORNEY - RETAINED ENTERED ON 12/14/2021

Plaintiff's Attorney: WILLIAM FOGEL

12/20/2021 Party(s): JP MORGAN ACQUISITION
CORP
APPEAL - NOTICE OF APPEAL FILED ON 12/20/2021
AMENDED TO REFLECT CORRECTION TO DEF NAME AND CLEARER ORIGINAL SIGNATURE.

12/20/2021 Party(s): JP MORGAN ACQUISITION
CORP
APPEAL - NOTICE OF APPEAL SENT TO LAW COURT ON 12/20/2021
AND DEF ATTY

12/20/2021 Party(s): JP MORGAN ACQUISITION
CORP
APPEAL - NOTICE OF APPEAL SENT TO LAW COURT ON 12/20/2021
AND ATTY RICKER

12/29/2021 Party(s): CAMILLE J MOULTON
OTHER FILING - AFFIDAVIT FILED ON 12/27/2021
OF KENDALL RICKER IN RE: ATTORNEY'S FEES

12/29/2021 APPEAL - RECORD ON APPEAL DUE IN LAW COURT ON 01/24/2022
TRIAL COURT CLERK WILL RETAIN RECORD UNTIL JAN. 17. 2022 AND SEND RECORD BY
JAN. 24.

12/29/2021 OTHER FILING - OTHER DOCUMENT FILED ON 12/27/2021
APPEAL DOCKETED IN LAW COURT DOCKET NUMBER ASSIGNED IS OXF-21-412

01/18/2022 APPEAL - RECORD ON APPEAL SENT TO LAW COURT ON 01/18/2022

DISTRICT COURT
Location: SOUTH PARIS
Docket No: SOPDC-RE-19-02

Defendant.

REVISED APPENDIX 9

the Covid-19 pandemic and the resulting federal CARES Act moratorium on foreclosures of occupied properties with federally-backed mortgage loans. *See* Coronavirus Aid, Relief, and Economic Security Act (CARES) Act, P.L. 116-136, 134 Stat. 281, § 4022(c)(2) (Mar. 27, 2020). It was during the period that the court extended scheduling order deadlines that Plaintiff filed its motion to dismiss. Since Plaintiff moved to dismiss, the Defendant timely filed an opposition and a motion for summary judgment, at which point the Plaintiff filed an opposition (September 29, 2021) and later a reply (October 14, 2021) to Defendant's filings.

Rule 41 states in part: "Except as provided in paragraph (1) of this subdivision of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper." M.R. Civ. P. 41(a)(2). Dismissals under Rule 41(a)(2) are in the discretion of the court. 3 Harvey & Merritt, *Maine Civil Practice* § 41:1 (3d, 2018-2019 ed. 2019). Unlike Rule 41(a)(1), which allows the plaintiff to decide whether the dismissal is with or without prejudice, Rule 41(a)(2) gives this discretion to the court. *Doe v. Hills-Pettitt*, 2020 ME 140, ¶ 8, 243 A.3d 461; *Green Tree Servicing, LLC v. Cope*, 2017 ME 68, ¶ 16, 158 A.3d 931.

Federal courts interpreting the nearly identical federal rule have found the following factors relevant in deciding whether to allow voluntary dismissal:

- 1) the defendant's effort and expense of preparation for trial;
- 2) excessive delay and lack of diligence on the part of the plaintiff in prosecuting the action;
- 3) insufficient explanation for the need to take a dismissal;
- 4) the fact that a motion is made at a critical juncture in the ongoing processing of the case; and,
- 5) whether a dispositive motion has been filed.

Nationstar Mortgage v. Halfacre, No. RE-14-47, 2015 Me. Super. LEXIS 54, at *3 (Mar. 24, 2015) (citing *Canadian Nat'l Ry. Co. v. Montreal, Me. & Atl. Ry., Inc.*, 275 F.R.D. 38, 41 (D.

Me. 2011)).

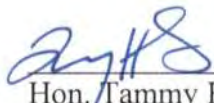
After carefully weighing these factors, the Court concludes that dismissal without prejudice is not warranted in this matter. The parties have engaged in nearly three years of pretrial proceedings in this matter. Allowing Plaintiff to dismiss at this critical juncture to potentially refile suit later would add time and expense to what has already been a lengthy course of litigation. Plaintiff has given the court no explanation for its dismissal, but it is difficult to imagine that the reason is one that could not have been discovered earlier in the proceedings. Plaintiff could have filed for dismissal earlier, thereby saving Defendant from incurring the additional legal cost of retaining counsel and prolonging the uncertainty over the status of the property. Without an explanation for Plaintiff's request for dismissal, it is unknown whether a subsequent foreclosure action would only serve to duplicate all of the efforts in this matter.

Defendant opposes this motion and has also filed a dispositive motion for summary judgment, which Plaintiff has already opposed. The parties' filings have been extensive and substantive in their arguments. It would be prejudicial to the Defendant—and a squandering of the judicial resources that have gone into this matter, including three mediations—to grant Plaintiff's motion to dismiss at this juncture.

Therefore, for the foregoing reasons, Plaintiff's Motion to Dismiss pursuant to M.R. Civ. P. 41(a)(2) is **DENIED**.

The Clerk is directed to incorporate this Order into the docket by reference pursuant to Rule 79(a) of the Maine Rules of Civil Procedure.

Dated: 11/24/2021



Hon. Tammy Ham-Thompson
Judge, Maine District Court

STATE OF MAINE
OXFORD, ss.

DISTRICT COURT
Location: SOUTH PARIS
Docket No: SOPDC-RE-19-02

J.P. MORGAN MORTGAGE ACQUISITION
CORP.

Plaintiff,

v.

CAMILLE J. MOULTON,

Defendant.

**ORDER ON DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

Before the Court is the Defendant's Motion for Summary Judgment in this action for foreclosure pursuant to 14 M.R.S. §§ 6321–6326. The procedural history of this case has already been outlined in the Court's Order on Plaintiff's Motion to Dismiss—issued contemporaneously with this order—and will not be repeated herein.

Defendant's motion is premised on Plaintiff's alleged failure to provide a precise amount to cure the default in its Notice of Default and Right to Cure ("Notice"), pursuant to 14 M.R.S. § 6111(1), (1-A), and requests judgment for Defendant on Plaintiff's complaint for foreclosure; declaration that Defendant holds title to the property unencumbered by the mortgage and promissory note; and grant Defendant her reasonable attorney's costs and fees. (*See* Def.'s Mot. Summ. J. at 5, 7.) The Notice, dated November 22, 2018, states on its face that "the total amount to cure the default is \$20,930.04." (Def.'s Ex. F, at 1.) However, in its attached Itemized Breakdown of the Total Amount Due, the total is \$20,257.66. (*Id.* at 5.)

Plaintiff opposes Defendant's motion and argues that the inclusion of both clauses: "[a]n itemization of all past due amounts causing the loan to be in default and the total amount due to cure the default" in section 6111(1-A)(B) (emphasis added) indicates that "[t]he statute clearly

anticipates that sometimes the two amounts may differ.” (Pl.’s Opp’n to Def.’s Mot. Summ. J. 2.) Plaintiff explains the discrepancy between the two amounts given in the Notice as a result of the Lender’s practice—outlined in the Mortgage (*see* Def.’s Ex. C, at 4, ¶ 2)—of applying payments received to the periodic payments due “if, and to the extent that, each payment can be paid in full.” (Pl.’s Opp’n, at 2; *see also* Pl.’s Add. S.M.F. ¶ 15.) Plaintiff states that Defendant’s October 2016 periodic payment of \$742.54 was past due. (Pl.’s Opp’n, at 2; Pl.’s Add. S.M.F. ¶ 17.) Therefore, when Defendant paid \$720.00 on November 18, 2016 (*see* Pl.’s Ex. 2; Pl.’s Add. S.M.F. ¶ 13), that amount was insufficient to pay the full amount of the October payment, and the Lender instead applied \$47.62 to the September 2016 payment to make *that* payment in full¹ and the remainder—\$672.62²—remained suspended in limbo as a “suspense balance credit,” as it was “insufficient to pay the October 2016 monthly payment, that *full payment* remained past due[.]” (Pl.’s Opp’n, at 2–3 (emphasis added); Pl.’s Add. S.M.F. ¶ 16.) The confusion in the Notice amounts arises from the fact that the Plaintiff’s servicer, Carrington Mortgage Services, LLC, calculated the total amount due in the itemization with the inclusion of the suspense balance credit, whereas the amount stated as the cure amount in the body of the Notice did not include this leftover amount that Defendant paid in November 2016. (Pl.’s Add. S.M.F. ¶ 20.) Plaintiff argues that the Notice fully complies with section 6111, as it instructs the

¹ There is no statement or record citation in Plaintiff’s Additional Statement of Material Facts establishing that the September 2016 payment was also past due. Plaintiff merely states that a portion of Defendant’s \$720.00 payment was applied to the payment due for September 2016 (Pl. Add. S.M.F. ¶ 16); however, it also states that the Notice was sent because “the loan was in default for the failure to pay the payment due for October 2016[.]” (Pl.’s Add. S.M.F. ¶ 17.) Exhibit 1 of the Lender’s Affidavit, made by Carrington Mortgage Services, LLC employee Default Fulfillment Manager Elizabeth Gonzales purports to establish Defendant’s default due to her failure “to make the monthly payment due October 1, 2016[.]” (Gonzales Aff. ¶ 6.) Exhibit 1 does not clearly indicate what amounts listed were payments made by Defendant, the date or amount of payments made by the Defendant, or other details that might help the Court to understand the payment history of Defendant’s mortgage.

² Deducting \$47.62 from \$720.00 leaves \$672.38, not the \$672.62 cited by Plaintiff multiple times in its opposition and in its statement of facts. (Pl.’s Opp’n, at 2–3; Pl.’s Add. S.M.F. ¶ 16.) However, the correct amount was used on the itemization of amounts due in the Notice. (*See* Notice, Pl.’s Ex. 3, at 5.)

Defendant to refer to the Itemization “for the total amount due.” (Pl.’s Opp’n, at 3; *see also* Pl.’s Add. S.M.F. ¶ 18.)

I. Summary Judgment

Summary judgment is proper if the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits show that there is no genuine issue as to any material fact, and that any party is entitled to judgment as a matter of law. M.R. Civ. P. 56(c). “A fact is material if it has the potential to affect the outcome of the suit, and a genuine issue of material fact exists when a fact-finder must choose between competing versions of the truth, even if one party’s version appears more credible or persuasive.” *Holmes v. E. Me. Med. Ctr.*, 2019 ME 84, ¶ 15, 208 A.3d 792.³ However, if the issue “remains one of pure speculation or conjecture, or even if the probabilities are evenly balanced,” a moving defendant is entitled to a summary judgment. *Id.* Ambiguities regarding the existence of a genuine issue of material fact must be resolved in favor of the non-moving party, and thus left for the fact-finder to decide. *Cookson v. Brewer School Dep’t*, 2009 ME 57, ¶ 12, 974 A.2d 276.

To survive a defendant’s motion for summary judgment, the plaintiff must establish a prima facie case for every element of the plaintiff’s cause of action. *See Savell v. Duddy*, 2016 ME 139, ¶ 18, 147 A.3d 1179 (“A party seeking to avoid summary judgment must adduce prima facie evidence as to each element of a claim or defense that the party asserts.”). A defendant who moves for summary judgment is entitled to a judgment only if the plaintiff, in response, fails to establish a prima facie case for each element of their cause of action. *See Lougee Conservancy v. CitiMortgage, Inc.*, 2012 ME 103, ¶ 12, 48 A.3d 774; *Estate of Barron v.*

³ *See also Inkel v. Livingston*, 2005 ME 42, ¶ 4, 869 A.2d 745) (quoting *Lever v. Acadia Hosp. Corp.*, 2004 ME 35, ¶ 2, 845 A.2d 1178) (“A genuine issue of material fact exists when there is sufficient evidence to require a fact-finder to choose between competing versions of the truth at trial.”)

Shapiro & Morley, LLC, 2017 ME 51, ¶ 13, 157 A.3d 769 (“If a plaintiff presents insufficient evidence on an essential element of a cause of action, such that the defendant would be entitled to judgment as a matter of law on that state of the evidence at a trial, the defendant is entitled to a summary judgment.”). Further, summary judgment may be appropriate “if the non-moving party rests merely upon conclusory allegations, improbable inferences, and unsupported speculation.” *Dyer v. DOT*, 2008 ME 106, ¶ 14, 951 A.2d 821 (citations omitted). The obligation of the non-moving party to come forward with appropriate evidence of a disputed fact through a proper statement of material facts is particularly important where the non-moving party has the burden of proof on the claim or issue in dispute.⁴

“Summary judgment, when appropriate, may be rendered against the moving party.” M.R. Civ. P. 56(c). However, “[f]or a mortgagee to legally foreclose, all steps mandated by statute must be strictly performed.” *Camden Nat’l Bank v. Peterson*, 2008 ME 85, ¶ 21, 948 A.2d 1251. Therefore, because compliance with 14 M.R.S. § 6111 is an essential element of foreclosure, a plaintiff-lender must prove their compliance in order for summary judgment to enter in their favor, regardless of the fact that they may be the non-moving party.

II. Requirements of Notice of Default and Right to Cure (14 M.R.S. § 6111)

The requirements for summary judgment in a foreclosure action outlined in M.R. Civ. P. 56(j)—strict compliance with section 6111⁵; certified ownership and produced evidence of the

⁴ Donald G. Alexander, *Lessons from the Bench: Tips for Success in Summary Judgment Practice*, 16 Maine Bar J. 172, 174–75 (2001) (citing *Int’l Ass’n of Machinists and Aerospace Workers, AFL-CIO v. Winship Green Nursing Ctr.*, 103 F.3d 196, 200 (1st Cir. 1996) and *Champagne v. Mid-Maine Med. Ctr.*, 1998 ME 87, ¶ 9, 711 A.2d 842).

⁵ Title 14 M.R.S. § 6111(i-A) states, in pertinent part:

A mortgagee shall include in the written notice under subsection 1 the following:

A. The mortgagor’s right to cure the default as provided in subsection 1;

mortgage, note, and all assignments; and that mediation has been completed or waived by defendant *or* that defendant, after proper service and notice, has failed to appear or respond—apply only to *plaintiffs* who move for summary judgment, and must be strictly performed in order for summary judgment to enter for a plaintiff in a foreclosure action. *Bank of Am., N.A. v. Greenleaf*, 2014 ME 89, ¶¶ 29–31, 96 A.3d 700. In the case where a defendant moves for summary judgment and the plaintiff must make a prima facie showing of each element required for foreclosure, failure to prove strict compliance with section 6111 can be fatal to a plaintiff’s entire claim. *See Wells Fargo Bank, N.A. v. Girouard*, 2015 ME 116, ¶ 9, 123 A.3d 216.

A. Total Amount to Cure the Default (14 M.R.S. § 6111(1-A)(B))

A foreclosure plaintiff must prove “the amount due on the mortgage note, including any reasonable attorney fees and court costs” in order to be entitled to judgment in a foreclosure action. *Greenleaf*, 2014 ME 89, ¶ 18, 96 A.3d 700. The amount due as of a certain date as stated in the statement of material facts must precisely match the evidence provided in support of this fact. *Lubar v. Connelly*, 2014 ME 17, ¶¶ 39–40, 86 A.3d 642.⁶

Case law following Maine foreclosure law has explicitly cleaved to this specificity. In *United States Bank Trust, N.A. v. Jones*, 330 F. Supp. 3d 530 (D. Me. 2018), *aff’d*, 925 F.3d 534 (1st Cir. 2019), the United States District Court for the District of Maine held that, because the notice of right to cure *overstated* the amount that the defendant had to pay in order to cure the default, and because Maine law requires *strict adherence* to all statutory foreclosure requirements (including an accurate itemization of all past due amounts that caused the loan to

-
- B. An itemization of all past due amounts causing the loan to be in default and the total amount due to cure the default;
 - C. An itemization of any other charges that must be paid in order to cure the default[.]

⁶ *See supra* note 2.

be in default and the total amount due to cure the default), the plaintiff-lender was not entitled to foreclose on the property.

Blocking a lender's foreclosure based on a mathematical or accounting error may be harsh to the mortgagee in some cases. But the Maine Supreme Judicial Court has taken a rigid approach to signal to lenders, servicers, and their attorneys that they must be thorough and meticulous when pursuing foreclosures in order to prevent a claim-preclusive judgment in favor of the borrower. *See Fed. Nat'l Mortg. Ass'n v. Deschaine*, 2017 ME 190, ¶ 34, 170 A.3d 230 (citing Megan Wachspress, et al., Comment, *In Defense of "Free Houses,"* 125 Yale L.J. 1115, 1116 (2016)). *The Maine Supreme Judicial Court instructs that § 6111's requirement that notices include "the precise amount" a borrower must pay "is strictly enforced."* *JPMorgan Chase Bank, N.A. v. Lowell*, 2017 ME 32, ¶ 13, 156 A.3d 727.

Id. 537–38 (emphasis added). This “rigid approach” to plaintiff's compliance with Maine foreclosure law means that failure to identify the “precise amount” due to cure in a Notice means failure to meet the requirements of section 6111, which in turn “blocks” the foreclosure claim.

III. Application

A. Amount Due to Cure Default (14 M.R.S. 6111(1-A)(B))

Plaintiff's argument is that the statute does not require the “itemization of all past due amounts causing the loan to be in default” and “the total amount due to cure the default” in section 6111(1-A)(B) to be the same amount. In light of the prodigious amount of Maine case law interpreting section 6111 as requiring a strict compliance with its provisions, as well as the plain language of M.R. Civ. P. 56(j), this argument fails to hold water.

The purpose of section 6111 is to set the right to cure in motion and put the mortgagor on notice of what is required of them to cure the default. *See Greenleaf*, 2014 ME 89, ¶ 30, 96 A.3d 700. On its face, this Notice informs the Defendant that \$20,930.04 is the “total amount to cure the default.” (*See* Notice, Def.'s Ex. C, at 5; Pl.'s Ex. 3, at 5.) That the Notice then points Defendant towards the attached itemization is not enough to overcome the inherent confusion

between the two amounts and plainly indicate which one is the correct amount that would cure the default. Having two different amounts in the Notice—one the “total amount to cure the default” and the other the “total amount due”—does not clearly put Defendant on notice of what is required of her to cure the default.

There is no evidence submitted with Plaintiff’s opposition or reply showing that the Lender made Defendant aware that her November 2016 payment was not straightforwardly applied to the October 2016 periodic payment, but rather that the bulk of it was withheld in a “suspense balance credit” (Pl.’s Opp’n, at 2–3; Pl.’s Add. S.M.F. ¶ 16) or “funds in unapplied” (*see* Notice, Def.’s Ex. C, at 5; Pl.’s Ex. 3, at 5). It is unclear on this record how Defendant would have known that her November 2016 payment had not been fully applied to the October 2016 arrearage, but instead partially applied to September 2016 with the majority remainder held in suspense, and therefore she should have known that she would have to pay the “total amount due” in the attached Itemization and not the “total amount to cure the default” indicated on the face of the Notice.

III. Conclusion

Plaintiff has not made a *prima facie* showing of strict compliance with 14 M.R.S. § 6111. Because strict compliance with section 6111 is an essential element of foreclosure, there is no genuine issue that Plaintiff would be unable to prove its substantive claim at trial. Therefore, the Court must enter summary judgment for Defendant.⁷ *See Wells Fargo Bank, N.A. v. Girouard*,

⁷ Even if the Court accepted Plaintiff’s interpretation of section 6111(1-A)(B), it would be unable to render summary judgment for Plaintiff because on this record, Plaintiff has not proven it has standing to foreclose pursuant to 14 M.R.S. § 6321; consequently, no summary judgment could enter for Plaintiff pursuant to M.R. Civ. P. 56(j)(ii). With its complaint, Plaintiff filed an Assignment of Mortgage from Mortgage Electronic Registration System, Inc. (“MERS”) “as nominee for Taylor, Bean, and Whitaker Mortgage Corp.” to Plaintiff, dated March 21, 2018, as well as a Quitclaim Assignment conveying the mortgage to Plaintiff, executed by Carrington Mortgage Services, LLC as attorney in fact for Government National Mortgage Association for Taylor, Bean & Whitaker (TBW) dated October 24, 2018. The Assignment of Mortgage failed to convey the mortgage because it was executed by MERS “as nominee,” which did not own the mortgage and thus had no authority to assign it. *See*

2015 ME 116, ¶ 9, 123 A.3d 216; *Estate of Barron, LLC*, 2017 ME 51, ¶ 13, 157 A.3d 769; *Lougee Conservancy*, 2012 ME 103, ¶ 12, 48 A.3d 774.

Further, because Plaintiff failed to prove its foreclosure claim—by failing to establish a prima facie case for each element of its cause of action in response to Defendant’s motion, in particular its compliance with section 6111—it no longer has any enforceable interest in the note or in the property which was security for the note. See *Pushard v. Bank of Am., N.A.*, 2017 ME 230, ¶ 35, 175 A.3d 103. Because Plaintiff is precluded from seeking to recover the underlying debt on the note, based on 14 M.R.S. § 6206, Defendant is, as a matter of law, entitled to a judgment declaring that she holds title to the real property at issue, unencumbered by the mortgage. *Fannie Mae v. Deschaine*, 2017 ME 190, ¶ 37, 170 A.3d 230; see also 14 M.R.S. § 6206 (stating that where “nothing is due on the mortgage, judgment shall be rendered for the defendant and for his costs, and he shall hold the land discharged of the mortgage.”).

A. Attorney’s Fees

Pursuant to 14 M.R.S. § 6101, “[i]f the mortgagee does not prevail . . . the court may order the mortgagee to pay the mortgagor’s reasonable court costs and attorney’s fees incurred in defending against the foreclosure . . . and deny in full or in part the award of attorney’s fees and

Greenleaf, 2014 ME 89, ¶ 17, 96 A.3d 700 (finding that mortgage with same language only gave MERS the “right to record the mortgage” and that subsequent assignment executed by MERS could not convey ownership of the mortgage). Therefore, Plaintiff must rely upon the Quitclaim Assignment to establish its ownership of the mortgage. The Quitclaim Assignment is purportedly executed by “Carrington Mortgage Services, LLC, as attorney-in-fact for Government National Mortgage Association for Taylor, Bean & Whitaker[.]” This language contains two links in a chain: one between Carrington and Government National Mortgage Association (GNMA) and the other between GNMA and TBW. Thus, to establish that Carrington had the authority to execute this quitclaim, Plaintiff would have to prove that Carrington had the authority to act as GNMA’s attorney-in-fact and that GNMA had the authority to act on TBW’s behalf. See *U.S. Bank Nat’l Ass’n v. Carney*, No. CARSC-RE-15-032, 2018 Me. Super. LEXIS 10, at *5 (Jan. 16, 2018) (citing *Maine Real Estate Law and Practice* §§ 10:10, 24:20 (2nd ed. 2007)) (“When a power of attorney is utilized to convey or mortgage real estate, to be effective the power of attorney must be acknowledged by the principal as if it were a deed, and be recorded in the registry of deeds.”). There is no evidence in this record of a power of attorney filed at the registry of deeds. As the record stands now, without the Quitclaim Assignment, Plaintiff has failed to prove it owns the mortgage, and therefore does not have standing to foreclose the mortgage. See *Carrington Mortg. Servs., LLC v. Gionest*, No. 2:16-cv-00534-NT, 2020 U.S. Dist. LEXIS 47781, at *6–10 (D. Me. Mar. 19, 2020).

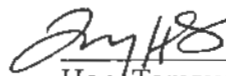
costs to the mortgagee.” Moreover, because Defendant is entitled to summary judgment on the foreclosure claim as a result of Plaintiff’s failure to fully comply with 14 M.R.S. § 6111, then “judgment *shall* be rendered for the defendant and for his costs.” 14 M.R.S. § 6206 (emphasis added).

The entry is:

1. Defendant’s Motion for Summary Judgment is GRANTED. Judgment shall enter for the Defendant, declaring that she holds title to the real property at issue, unencumbered by the mortgage and promissory note.
2. Defendant is awarded her reasonable attorney’s fees and costs. Counsel for Defendant to submit an attorney’s fees affidavit and proposed order within thirty (30) days of this order.

The Clerk is directed to enter this Order on the civil docket by reference pursuant to Rule 79(a) of the Maine Rules of Civil Procedure.

Dated: 11/24/2021



Hon. Tammy Ham-Thompson
Judge, Maine District Court

STATE OF MAINE
OXFORD, ss.

DISTRICT COURT
SOUTH PARIS
CIVIL ACTION
DOCKET NO. RE 19-02

J.P. MORGAN MORTGAGE ACQUISITION
CORP.

PLAINTIFF

v.

CAMILLE J. MOULTON
DEFENDANT

COMPLAINT FOR FORECLOSURE BY CIVIL ACTION
TITLE TO REAL ESTATE IS INVOLVED

52 Morrill Street, Buckfield, ME 04220
Eastern Oxford County Registry of Deeds Book 4418, Page 275

NOW COMES the Plaintiff, by and through its attorneys, Korde & Associates, P.C., and complains against the Defendant pursuant to 14 M.R.S. § 6321 et seq. saying further as follows:

1. Plaintiff J.P. Morgan Mortgage Acquisition Corp. has a mailing address c/o loan servicer Carrington Mortgage Services, LLC, 1600 South Douglass Road, Suite 200-A, Anaheim, California 92806 and certifies that it is the owner of the subject Note.

2. Defendant Camille J. Moulton is an individual with a mailing address upon information and belief of 52 Morrill Street, Buckfield, ME 04220.

3. Camille J. Moulton is the owner of certain real property located at 52 Morrill Street, Buckfield, ME, by virtue of a deed from United States of America, Secretary of Housing and Urban Development to Camille J. Moulton dated March 17, 2009 and recorded in the Eastern Oxford County Registry of Deeds on March 23, 2009 in Book 4418, Page 273.

4. In order to protect the borrower's privacy, certain personal information of the borrower (such as loan, account, social security numbers, telephone numbers, and birth dates), may have been partially or completely redacted on the exhibits attached to this Complaint.

5. On March 18, 2009, Camille J. Moulton executed and delivered to Taylor, Bean & Whitaker Mortgage Corp. a certain promissory note in the original principal amount of \$62,985.00 (the "Note"). Taylor, Bean & Whitaker Mortgage Corp. executed an endorsement in blank appearing on the Note, rendering the Note enforceable by the party that is in possession of the original Note. A copy of the Note is attached hereto as Exhibit A.

6. To secure the Note, Camille Moulton executed and delivered to Mortgage Electronic Registration Systems, Inc., as nominee for Taylor, Bean & Whitaker Mortgage Corp., its successors and assigns a mortgage in the amount of \$62,985.00 which mortgage was recorded on March 23, 2009 in the Eastern Oxford County Registry of Deeds in Book 4418, Page 275 (the "Mortgage"). A copy of the Mortgage is attached hereto as Exhibit B. The premises is known as 52 Morrill Street, Buckfield, ME 04220, and is more particularly described in the Mortgage (the "Premises").

7. The Mortgage was assigned as follows:

- Assignment from Mortgage Electronic Registration Systems, Inc., as nominee for Taylor, Bean & Whitaker Mortgage Corp., its successors and assigns to J.P. Morgan Mortgage Acquisition Corp. dated March 21, 2018 recorded on March 29, 2018 in Book 5400, Page 157.
- Quitclaim Assignment from Taylor, Bean & Whitaker Mortgage Corp. to J.P. Morgan Mortgage Acquisition Corp. dated October 24, 2018 recorded on November 5, 2018 in Book 5440, Page 831.

Copies of the assignments are attached hereto as Exhibit C.

8. Camille J. Moulton is presently in default on the Note, having failed to make the monthly payment due October 1, 2016, and having failed to make all payments due thereafter, thereby breaching a condition of the Mortgage.

9. Plaintiff certifies that all steps mandated by law to provide notice of the default and of the right to cure have been taken and strictly performed.

10. By letters dated November 22, 2018, notice was provided that the Note was in default and of the right to cure the default. Copies of the notices are attached hereto as Exhibit D.

11. The notices were given by first class mail, postage prepaid with a United States Postal Service certificate of mailing on November 24, 2018 and therefore expired on January 1, 2019.

12. The default has not been cured and, in accordance with the Note and Mortgage, the entire principal amount outstanding, accrued interest thereon, and all other sums due under the Note and Mortgage have been declared to be presently due and payable.

13. As of January 31, 2019 the following amounts are due the Plaintiff, exclusive of costs of collection, including attorney's fees, under the terms of the Note and the Mortgage:

Principal Balance	\$55,334.74
Accrued Interest	7,351.50
Property Inspection Fees	575.00
Escrow Advance	9,080.37
Suspense Balance	(672.38)
Total	<hr/> \$71,669.23

Additional interest is accruing on said principal balance from said date at a rate of \$8.34 per day.

14. Plaintiff anticipates that additional disbursements will be made for attorney's fees and other services rendered during the foreclosure and sale.

15. By virtue of a breach of condition of the Note and Mortgage, Plaintiff hereby demands the foreclosure of the Mortgage and the sale of the Premises.

WHEREFORE, Plaintiff prays that this Honorable Court:

A. Determine that there has been a breach of condition of the Mortgage;

B. Determine the amount due on the Note and Mortgage, including principal, interest, reasonable attorney's fees, court costs, and other expenses;

C. Find Camille J. Moulton liable for any deficiency balance remaining due to Plaintiff after the sale of the Premises and application of the proceeds of sale;

D. Issue a Judgment of Foreclosure and Sale in conformity with 14 M.R.S. § 6322;

E. Order exclusive possession of the Premises to the Plaintiff upon the expiration of the statutory ninety (90) day period of redemption and direct the Clerk to issue a writ of possession at the request of the Plaintiff; and

F. Grant such other and further relief as the Court may determine proper.

Dated at South Portland, Maine, this 22nd day of January, 2019.

Respectfully submitted,

J.P. Morgan Mortgage Acquisition Corp.

By: 

Leonard F. Morley, Jr., #3856

Attorney for Plaintiff

KORDE & ASSOCIATES, P.C.

707 Sable Oaks Dr., Suite 250

South Portland, Maine 04106

(207) 775-6223

Email address for Electronic Service upon
Plaintiff pursuant to M.R.Civ.P. 5(b)(2):

MERule5@logs.com

18-025535

STATE OF MAINE
OXFORD, ss.

DISTRICT COURT
SOUTH PARIS
CIVIL ACTION
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.

PLAINTIFF

v.

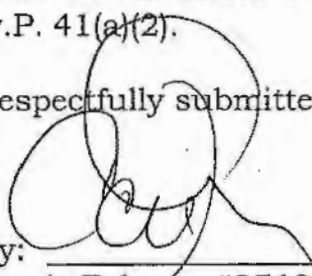
CAMILLE J. MOULTON
DEFENDANT

MOTION TO DISMISS

Plaintiff hereby moves this Court for an order dismissing this action without prejudice pursuant to M.R.Civ.P. 41(a)(2).

Respectfully submitted,

Dated: August 18, 2021

By: 
Carrie Folsom, #9510
Attorney for Plaintiff
CFolsom@KordeAssociates.com

Korde & Associates, P.C.
707 Sable Oaks Dr., Suite 250
South Portland, ME 04106
(207) 775-6223

NOTICE OF MOTION

Please be advised that the Plaintiff has this date filed the foregoing motion. Objections to the motion must be filed not later than 21 days after the filing of the motion. Failure to file timely opposition will be deemed a waiver of all objections to the motion, and which may be granted by the Court without further notice or hearing.

STATE OF MAINE
OXFORD, ss

DISTRICT COURT
SOUTH PARIS
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.,

PLAINTIFF

v.

CAMILLE J. MOULTON,

DEFENDANT

DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT AND INCORPORATED
MEMORANDUM OF LAW

NOW COMES the Defendant, Camille J. Moulton, by and through her undersigned counsel, and hereby moves, pursuant to M.R.Civ.P. 56 for summary judgment against Plaintiff, J.P. Morgan Mortgage Acquisition Corp. on the grounds that there are no disputed issues of material fact and the Defendant is entitled to judgment as a matter of law. In support of her motion, the Defendant states as follows:

Factual Background¹

Defendant, Camille J. Moulton, is an individual residing at 52 Morrill St. Buckfield, Maine 04220. Defendant executed a certain promissory note dated March 18, 2009 in favor of Taylor, Bean & Whitaker Mortgage Corp. (hereinafter referred to as the "Promissory Note" or "Note"). Defendant executed a certain mortgage in favor of Mortgage Electronic Registration Systems, Inc. as nominee for Lender, and Taylor, Bean & Whitaker Mortgage Corp. as Lender dated March 18, 2009 and recorded in the Oxford County Registry of Deeds in Book 4418, Page 275 (hereinafter referred to as the "Mortgage"). The Mortgage was assigned to J.P. Morgan Mortgage Acquisition Corp. by an Assignment of Mortgage from Mortgage Electronic Registration Systems, Inc. as nominee for Taylor,

¹ The statements in this section are taken verbatim (but without citation) from Plaintiffs' Statement of Material Facts, which is filed simultaneously with this motion and memorandum.

Bean & Whitaker Mortgage Corp. dated March 21, 2018 and recorded in the Oxford County registry of Deeds in Book 5400, Page 157; and by a Quitclaim Assignment from Taylor, Bean & Whitaker Mortgage Corp. dated October 24, 2018 and recorded in the Oxford County Registry of Deeds in Book 5440, Page 831. The Mortgage encumbered the Defendant's property located 52 Morrill St. Buckfield, Maine (hereinafter referred to as the "Premises"). The Premises is the Defendant's primary residence. The only notice of default and right to cure Plaintiff sent to the Defendant was a letter entitled "Notice of Right to Cure" dated November 22, 2018 (hereinafter referred to as the "Notice"). The Plaintiff commenced this foreclosure action by filing a complaint dated January 22, 2019 with the Court (hereinafter referred to as the "Complaint"). The total amount due to cure the default stated in the Notice was \$20,930.04. The total listed in the Exhibit A "Itemized Breakdown of the Total amount Due" of the Notice was \$20,257.66. The total amount due to cure the default stated in the Notice is different from the total listed in the itemization of all past due amounts causing the loan to be in default provided in the Notice. The total amount due to cure the default stated in the Notice is more than the amount that was actually due to cure the default.

MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AGAINST PLAINTIFF

Standard of Review

In residential mortgage foreclosure actions, the court strictly applies the rules regarding summary judgment. *HSBC Mortg. Servs., Inc. v. Murphy*, 2011 ME 59, ¶ 9, 19 A.3d 815. In order to prevail on a motion for summary judgment there must be no genuine issue of material fact and the moving party must be entitled to judgment as a matter of law. *Casco Northern Bank v. Pearl*, 584 A.2d 643, 645 (Me. 1990), citing *Bailey v. Gulliver*, 583 A.2d 699 (Me. 1990); *Estes v. Smith*, 521 A.2d 682, 683 (Me. 1987); 2 Field, McKusick & Wroth, *Maine Civil Practice* §56.2a at 36 (2d ed. 1970). A fact is material

if it “has the potential to affect the outcome of the suit, and a genuine issue of material fact exists when a fact-finder must choose between competing versions of the truth.” *Id.* A genuine issue is raised “when sufficient evidence requires a fact-finder to choose between competing versions of the truth at trial.” *Parrish v. Wright*, 2003 ME 90 ¶ 8, 828 A.2d 778, 781. In summary judgment proceedings the facts are reviewed, “in the light most favorable to the nonmoving party.” *Lightfoot v. Sch. Admin. Dist. No. 35*, 2003 ME 24 ¶ 6, 816 A.2d 63, 65. However, to survive a motion for summary judgment the Plaintiff must present a prima facie case for the claim or defense that is asserted. *Reliance National Indemnity v. Knowles Industrial Services*, 2005 ME 29 ¶ 9, 868 A.2d 220, 224-25. “No summary judgment shall be entered in a foreclosure action filed pursuant to Title 14, Chapter 713 of the Maine Revised Statutes except after review by the court and determination that (i) the service and notice requirements of 14 M.R.S. § 6111 and these rules have been strictly performed; (ii) the plaintiff has properly certified proof of ownership of the mortgage note and produced evidence of the mortgage note, the mortgage, and all assignments and endorsements of the mortgage note and the mortgage; and (iii) mediation, when required, has been completed...” *M.R. Civ.P. 56(j)*. When a party moves for summary judgment in a residential mortgage foreclosure action, Maine Rule of Civil Procedure 56(j) requires the court to independently determine whether the mortgage holder has properly set forth in its statement of material facts all of the elements necessary for a foreclosure judgment. *M.R. Civ. P. 56(j)*; *Chase Home Fin. LLC v. Higgins*, 2009 ME 136, ¶ 11, 985 A.2d 508.

Strict Compliance with 14 M.R.S. §6111

In a residential mortgage foreclosure action, the prima facie case includes a showing by Plaintiff that it will be able to produce evidence of its strict compliance with all steps required by statutes, and the establishment of all eight elements of a foreclosure action. *Greenleaf*, 2014 ME 89, ¶ 18, 96 A.3d 700. See also *Higgins*, 2009 ME 136, ¶ 11, 985 A.2d 508. Therefore, “if the court determines on a motion for

summary judgment that a foreclosure plaintiff would be unable to prove a necessary element of its substantive claim, then the court must enter judgment for the defendant.” *Mechanics Savings Bank v. Bellisle*, 061516 MESUP, AUBSC-RE-15-017, citing *Wells Fargo Bank, N.A. v. Girouard*, 2015 ME 116, ¶ 9, 123 A.3d 216. The minimum facts that must be enumerated include “evidence of properly served notice of default and mortgagor’s right to cure in compliance with statutory requirements . . . see 14 M.R.S. §6111.” *Higgins*, 2009 ME 136 at ¶ 11. Pursuant to *Title 14 M.R.S. §6111* (hereinafter “§6111”) a mortgagee is prohibited from accelerating a mortgage, or subsequently filing a complaint for foreclosure if it has not sufficiently provided the mortgagor with proper notice. The statute requires that “when the mortgagor is occupying all or a portion of the property as the mortgagor’s primary residence and the mortgage secures a loan for person, family or household use, the mortgagee may not accelerate maturity of the unpaid balance of the obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor’s failure to make any required payment, tax payment or insurance premium payment, by any method authorized by this chapter until at least 35 days after the date that written notice pursuant to subsection 1-A is given by the mortgagee to the mortgagor.” §6111(1).

**I. Lack of Precise Cure Amount in Notice of Default
(14 M.R.S. §6111)(1) and (1-A)(B)**

In order for the Plaintiff to prevail in this action it must be able to demonstrate strict compliance with the notice requirements set forth in §6111. *Greenleaf*, 2014 ME 89, ¶ 18, 96 A.3d 700. Plaintiff cannot present the prima facie element in its action for foreclosure against Defendant pertaining to its satisfaction of the requirement for the precise total amount due to cure the default within the written notice as set forth in §6111(1) and (1-A)(B). In *Greenleaf* the Court clarified that “section 6111 effectively freezes such additions to the payoff amount during the cure period. Because the amount due as stated in the notice of default is the precise amount that the mortgagor has thirty-five days to pay in

order to cure the default, the amount due is not... open to any further accrual during that period.”

Greenleaf at ¶ 31. Pursuant to the Law Courts’ directive that the payoff amount must be frozen during the cure period, courts have subsequently found statements within a notice of default that create ambiguity as to what the payoff amount is, or suggest that the payoff amount could be subject to change, are not compliant with the statutory requirement for a precise amount that can be paid to cure the default. *Mechanics Savings Bank v. Bellisle*, 061516 MESUP, AUBSC-RE-15-017, §III(A) ¶ 2.

The Notice fails to provide a precise amount to cure the default, because the Notice states a cure amount that exceeds the amount the Defendant would need to pay in order to cure the default.

(*Defendant Statement of Material Facts* (“DSMF”) Pages 2-3, ¶¶ 7, 9-12; and *DSMF* Exhibit F). The Notice states that Defendant must pay \$20,930.04, while Plaintiff’s own calculations provided in the Notice’s Itemization provides that the actual amount the Defendant needed to pay to cure the default was \$20,257.66. (*DSMF* Pages 2-3, ¶¶ 7, 9-12; and *DSMF* Exhibit F Page 1, ¶ 1, and Page 5). A lack of a precise cure amount in the Notice does not strictly comply with the notice requirements set forth in §6111(1) and (1-A)(B). *Greenleaf* at ¶ 31. Therefore, Plaintiff cannot prevail in its action for foreclosure, and Defendant is entitled to a judgment as a matter of law.

The Notice further fails to provide a precise cure amount because of the ambiguity due to conflicting amounts within the Notice. (*DSMF* Pages 2-3, ¶¶ 7, 9-12; and *DSMF* Exhibit F Page 1, ¶ 1, and Page 5). The itemization of what was past due as of the date of the Notice, as discussed above, identifies a credit to Defendant for “Funds in Unapplied”, this creates ambiguity as to what must be paid to cure the default. (*DSMF* Pages 2-3, ¶¶ 7, 9-12; and *DSMF* Exhibit F Page 1, ¶ 1, and Page 5). The Notice does not indicate whether the unapplied funds would be credited towards the cure amount or if the full cure amount would need to be paid, and what would happen to the unapplied funds if the full cure amount were paid. (*DSMF* Pages 2-3, ¶¶ 7, 9-12; and *DSMF* Exhibit F Page 1, ¶ 1, and Page 5).

As a result of the ambiguity as to what must be paid in order to cure the default the Notice fails to provide a total amount due to cure the default, and therefore does not strictly comply with the notice requirements set forth in §6111. *Greenleaf* at ¶ 31. Therefore, Plaintiff cannot prevail in its action for foreclosure, and Defendant is entitled to a judgment as a matter of law.

Title, Attorneys Fees, and Costs

If a mortgagor prevails against a mortgagee, the court may grant a mortgagor their reasonable costs and attorney's fees: "If the mortgagee does not prevail... the court may order the mortgagee to pay the mortgagor's reasonable court costs and attorney's fees incurred in defending against the foreclosure or any proceeding within the foreclosure action..." 14 M.R.S. §6101. "If it appears that nothing is due on the mortgage, judgment shall be rendered for the defendant and for his costs, and he shall hold the land discharged of the mortgage." 14 M.R.S. §6206. It is within the courts ambit to determine if a party prevailed and to award fees "incurred in defending against the foreclosure or any proceeding within the foreclosure action," (14 M.R.S. § 6101; *Homeward Residential, Inc. v. Gregor*, 2017 ME 128, ¶ 13, 14, 165 A.3d 357.) An order of summary judgement entered against a plaintiff in an action for foreclosure where the foreclosure is the sole claim within the complaint constitutes a loss on the merits of its sole claim of action and the plaintiff is therefore a non-prevailing party. (*Bangs v. Town of Wells*, 2003 ME 129 ¶9, 834 A.2d 955 (2003).) The trial courts are granted discretion in determining whether or not a party is a prevailing party because the trial courts are in the best decision to make such a determination. (*Bangs* at ¶9.) Therefore, the court is entitled to grant Defendant her reasonable attorneys fees and costs if it enters a judgment as a matter of law in favor of the Defendant.

WHEREFORE, Defendant respectfully request this Honorable Court enter judgment for the

Defendant and against Plaintiff on Plaintiff's Complaint for Foreclosure; declare that Defendant hold title to the Premises unencumbered by the Mortgage and Promissory, grant the Defendant her reasonable attorney's fees and costs; and such other and further relief as the Court deems just.

Dated at Turner, this 8 day of September, 2021.

Respectfully submitted,



Kendall A. Ricker, Esq. BRN #5342
Attorney for Defendant

Boothby, Silver & Ricker, LLC
22 School House Hill Road
PO BOX 216
Turner, Maine 04282
(207) 225-5044
kendall@boothbysilver.com

IMPORTANT NOTICE

PURSUANT TO RULE 7 (C) OF THE MAINE RULES OF CIVIL PROCEDURE, ANY PARTY OPPOSING THIS MOTION SHALL FILE A MEMORANDUM AND ANY SUPPORTING AFFIDAVITS OR OTHER DOCUMENTS IN OPPOSITION TO THE MOTION NOT LATER THAN 21 DAYS AFTER THE FILING OF THE MOTION, UNLESS ANOTHER TIME IS SET BY THE COURT. FAILURE TO FILE A TIMELY OPPOSITION WILL BE DEEMED A WAIVER OF ALL OBJECTIONS TO THE MOTION, WHICH MAY THEN BE GRANTED WITHOUT FURTHER NOTICE OR HEARING. THIS NOTICE IS PROVIDED IN ACCORDANCE WITH RULE 7(b)(1) OF THE MAINE RULES OF CIVIL PROCEDURE.

PURSUANT TO RULE 56(H) OF THE MAINE RULES OF CIVIL PROCEDURE, OPPOSITION TO THE MOTION MUST COMPLY WITH THE REQUIREMENTS OF RULE 56(H) INCLUDING SPECIFIC RESPONSES TO EACH NUMBERED STATEMENT IN THE MOVING PARTY'S STATEMENT OF MATERIAL FACTS, WITH CITATIONS TO POINTS IN THE RECORD OR IN AFFIDAVITS FILED TO SUPPORT THE OPPOSITION NOT COMPLYING WITH RULE 56(H) IN OPPOSING THE MOTION MAY RESULT IN ENTRY OF JUDGMENT WITHOUT HEARING.

STATE OF MAINE
OXFORD, ss

DISTRICT COURT
SOUTH PARIS
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.,

PLAINTIFF

v.

CAMILLE J. MOULTON,

DEFENDANT

DEFENDANT'S STATEMENT OF
MATERIAL FACTS IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

NOW COMES the Defendant, Camille J. Moulton, by and through her undersigned counsel, and submits that the following facts are material, undisputed and conclusive:

STATEMENT OF FACTS

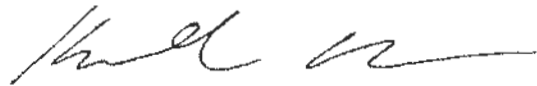
1. Defendant, Camille J. Moulton, is an individual residing at 52 Morrill St. Buckfield, Maine 04220. (Defendant Camille J. Moulton's Affidavit attached as Exhibit A, Page 1, ¶¶ 2 and 4).
2. Defendant executed a certain promissory note dated March 18, 2009 in favor of Taylor, Bean & Whitaker Mortgage Corp. (hereinafter referred to as the "Promissory Note" or "Note"). (See Exhibit A, Page 1, ¶¶ 5 and 6; and Promissory Note attached as Exhibit B).
3. Defendant executed a certain mortgage in favor of Mortgage Electronic Registration Systems, Inc. as nominee for Lender, and Taylor, Bean & Whitaker Mortgage Corp. as Lender dated March 18, 2009 and recorded in the Oxford County Registry of Deeds in

- Book 4418, Page 275 (hereinafter referred to as the “Mortgage”). (See Exhibit A, Page 1, ¶¶ 7 and 8; and Mortgage attached as Exhibit C).
4. The Mortgage was assigned to J.P. Morgan Mortgage Acquisition Corp. by an Assignment of Mortgage from Mortgage Electronic Registration Systems, Inc. as nominee for Taylor, Bean & Whitaker Mortgage Corp. dated March 21, 2018 and recorded in the Oxford County registry of Deeds in Book 5400, Page 157; and by a Quitclaim Assignment from Taylor, Bean & Whitaker Mortgage Corp. dated October 24, 2018 and recorded in the Oxford County Registry of Deeds in Book 5440, Page 831. (See Exhibit A, Page 2, ¶¶ 9 and 10; Assignment of Mortgage attached hereto as Exhibit D, and Quitclaim Assignment attached hereto as Exhibit E).
 5. The Mortgage encumbered the Defendant’s property located 52 Morrill St. Buckfield, Maine (hereinafter referred to as the “Premises”). (See Exhibit A, Page 1 and 2, ¶¶ 4 and 11; and Exhibit C, Pages 3 and 4).
 6. The Premises is the Defendant’s primary residence. (See Exhibit A, Page 1, ¶¶ 4, 7, and 11; and Exhibit C, Page 3).
 7. The only notice of default and right to cure Plaintiff sent to the Defendant was a letter entitled “Notice of Right to Cure” dated November 22, 2018 (hereinafter referred to as the “Notice”). (See Exhibit A, Page 2, ¶¶ 12-14; and the Notice attached hereto as Exhibit F).
 8. The Plaintiff commenced this foreclosure action by filing a complaint dated January 22, 2019 with the Court (hereinafter referred to as the “Complaint”). (See Exhibit A, Page 3 and 4, ¶¶ 15 and 16; and the Complaint attached hereto as Exhibit G (Exhibits to the Complaint omitted to avoid duplication)).

9. The total amount due to cure the default stated in the Notice was \$20,930.04. (See Exhibit A, Page 2, ¶¶ 12-14; and Exhibit F, Page 1, ¶ 1).
10. The total listed in the Exhibit A “Itemized Breakdown of the Total amount Due” of the Notice was \$20,257.66. (See Exhibit A, Page 2, ¶¶ 12-14; and Exhibit F, Page 5).
11. The total amount due to cure the default stated in the Notice is different from the total listed in the itemization of all past due amounts causing the loan to be in default provided in the Notice. (See Exhibit A, Page 2, ¶¶ 12-14; and Exhibit F, Page 1, ¶1, and Page 5).
12. The total amount due to cure the default stated in the Notice is more than the amount that was actually due to cure the default. (See Exhibit A, Page 2, ¶¶ 12-14; and Exhibit F, Page 1, ¶1, and Page 5).

Dated at Turner, this 8 day of September, 2021.

Respectfully submitted,



Kendall A. Ricker, Esq. BRN #5342
Attorney for Defendant

Boothby, Silver & Ricker, LLC
22 School House Hill Road
PO BOX 216
Turner, Maine 04282
(207) 225-5044
kendall@boothbysilver.com

CROSS-REFERENCE PAGE FOR EXHIBITS TO AVOID DUPLICATION

Pursuant to M. R. App. P. 8 (c) and 8 (h) 3, the following exhibits referred to and appended to this document appear *elsewhere* in the Appendix cross-referenced by Exhibit No. as follows:

EXHIBIT A – Affidavit of Camille Moulton	(A. 87)
EXHIBIT B – The Note	(A. 47)
EXHIBIT C – The Mortgage	(A. 48)
EXHIBIT D – The MERS Assignment	(A. 65)
EXHIBIT E – The Quitclaim Assignment	(A. 66)
EXHIBIT F – The Default and Cure Notice	(A. 67)
EXHIBIT G – The Complaint.....	(A. 21)

STATE OF MAINE
OXFORD, ss.

DISTRICT COURT
SOUTH PARIS
CIVIL ACTION
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.

PLAINTIFF

v.

CAMILLE J. MOULTON

DEFENDANT

**PLAINTIFF'S OPPOSING STATEMENT OF MATERIAL FACTS AND
STATEMENT OF ADDITIONAL MATERIAL FACTS**

PLAINTIFF'S OPPOSING STATEMENT OF MATERIAL FACTS

NOW COMES the Plaintiff and responds to Defendant's Statement of
Material Facts as Follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Qualified. Plaintiff admits that the notice of default and right to cure dated November 22, 2018 is the only notice sent to Defendant, but denies that the Notice is a complete copy, as it is missing the middle page of the

3 pages of housing counselors in Maine. See Exhibit 3 of Plaintiff's Lender and Exhibit Affidavit.

8. Admitted.
9. Denied. Affidavit of Lender, ¶10.
10. Admitted.
11. Denied. Lender Affidavit ¶ 10 and Exhibit 3, page 1 and Exhibit A.
12. Denied. Lender Affidavit ¶ 10 and Exhibit A of Exhibit 3

PLAINTIFF'S ADDITIONAL STATEMENTS OF MATERIAL FACTS

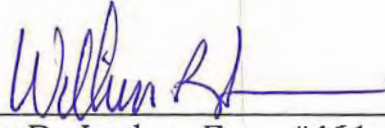
13. The last payment received from Defendant was a check for \$720.00 dated November 18, 2016. Affidavit of Lender, ¶7 and Exhibit 2.
14. At the time of the last payment, the monthly payment due on the loan was \$742.54, and the payment submitted was not sufficient to make a full payment. Affidavit of Lender, ¶ 7.
15. Under the terms of the mortgage in this case, if a borrower payment is insufficient to pay a full monthly payment, the full monthly payment remains outstanding, and the borrower's partial payment is held as a credit against the loan as a suspense until additional funds are paid, and those funds are added to the suspense balance to make a full payment, which is then applied to the earliest outstanding monthly payment. Affidavit of Lender, ¶ 5, and the mortgage, page 4¶ 2 (Defendant's Exhibit C to her Statement of Facts).

16. \$47.62 of Defendant's payment of \$720.00 was added to the then existing suspense balance to make a full payment, and was applied to the payment due for September, 2016, leaving a credit of \$672.62 in suspense. Affidavit of Lender ¶ 7 and Exhibit 1.
17. At the time the Notice of Default was sent, the loan was in default for the failure to pay the payment due for October, 2016 and the additional payments due through November 2018. Affidavit of Lender ¶10 and Exhibit 3.
18. The Notice of Default and Right to Cure instructs the Defendant to refer to Exhibit A for the itemized breakdown of the total amount due. Affidavit of Lender, ¶ 10 and Exhibit 3.
19. Exhibit A to the Notice of Default includes to suspense balance credit and states that the total amount due is \$20,257.66. Affidavit of Lender ¶ 10 and Exhibit 3, Exhibit A.
20. The past due amounts that caused the loan to be in default include the payment due on October 2016 and total \$20,930.04, but do not include credits on the loan which are a past due amount. The credit of \$672.38 is applied to the past due amount to determine the total amount due of \$20,257.66. Lender's Affidavit ¶ 10 and Exhibit 3.

Respectfully submitted,

Dated: September 27, 2021

By:

A handwritten signature in blue ink, appearing to read "William B. Jordan", is written over a horizontal line.

William B. Jordan, Esq., #461

Attorney for Plaintiff

Email address for Electronic Service upon
Plaintiff pursuant to M.R.Civ.P. 5(b)(2):

MERule5@logs.com

Korde & Associates, P.C.
707 Sable Oaks Dr., Suite 250
South Portland, ME 04106
(207) 775-6223

STATE OF MAINE
OXFORD, ss

DISTRICT COURT
SOUTH PARIS
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.,

PLAINTIFF

v.

CAMILLE J. MOULTON,

DEFENDANT

DEFENDANT'S REPLY TO PLAINTIFF'S
OPPOSING STATEMENT OF MATERIAL
FACTS AND ADDITIONAL MATERIAL
FACTS

NOW COMES the Defendant, Camille J. Moulton, by and through her undersigned counsel, and hereby submit the following reply to Plaintiff's, J.P. Morgan Mortgage Acquisition Corp., Opposing Statement of Material Facts and Additional Facts ("PASF"):

RESPONSE TO PLAINTIFF'S OPPOSING AND ADDITIONAL STATEMENT OF FACTS

PASF 9. Denied. Affidavit of Lender ¶ 10.

OBJECTION: Defendant objects to Plaintiff's denial of Defendant's Statement of Material Facts ("DSMF") ¶ 9. Plaintiff's denial is not properly supported by citation to the Record. Plaintiff's denial is based upon its Affidavit of Lender ¶ 10, which states: "The amount of \$20,930.04 on the first page of the notice of default shows the total amount of past due monthly payments from October 1, 2016 to November 2018, as well as other charges that are due. The first paragraph explicitly refers to the attached Exhibit A for the total amount due." The Plaintiff's statement regarding how to interrupt the total amount due to cure the default stated in the Notice mischaracterizes the actual language of the

Notice. The verbatim language in the Notice is "As of the date of this letter, **the total amount to cure the default is \$20,930.04.** Please refer to the attached *Exhibit A for the itemized breakdown of the total amount due.*" (Exhibit F, Page 1, ¶ 1 and Page 5 (**Emphasis added**)). Although the amount of \$20,930.04 was the total amount due for past due monthly payments and other charges without credit given, it was not stated as such in the Notice, it was stated as the "total amount to cure the default." (Exhibit F, Page 1, ¶ 1). The "Itemized Breakdown of the Total Amount Due" attached as Exhibit A to the Notice does not modify the total amount due to cure the default, it provides a breakdown of the total amount due. (See Exhibit A, Page 2, ¶¶ 12-14; and Exhibit F, Page 1, ¶ 1 and Page 5).

PASF 11. Denied. Lender Affidavit ¶ 10 and Exhibit 3, page 1 and Exhibit A.

OBJECTION: Defendant objects to Plaintiff's denial of DSMF ¶ 11. Plaintiff's denial is not properly supported by citation to the Record. Plaintiff's denial is based upon its Affidavit of Lender ¶10, which admits DSMF ¶11, but mischaracterizes the actual language of the Notice, in order to argue that the total amount due to cure the default on the first page of the Notice and the total on the Itemized Breakdown of the Total Amount Due are the same. The verbatim language in the Notice is "As of the date of this letter, the total amount to cure the default is \$20,930.04. (Exhibit F, Page 1, ¶ 1). The "Total" stated on the Exhibit A of the Notice entitled "Itemized Breakdown of the Total Amount Due" is \$20,257.66. (Exhibit F, Page 5). Plaintiff's argument as to how "...the total amount to cure the default is \$20,930.04" was actually stating that the total amount to cure the default was \$20,257.66 does not change the fact that \$20,930.04 does not equal \$20,257.66. (See Exhibit A, Page 2, ¶¶ 12-14; and Exhibit F, Page 1, ¶ 1 and Page 5).

PASF 12. Denied. Lender Affidavit ¶10 and Exhibit A of Exhibit 3.

OBJECTION: Defendant objects to Plaintiff's denial of DSMF ¶11. Plaintiff's denial is not properly supported by citation to the Record. Plaintiff's denial is based upon its Affidavit of Lender ¶10, which admits DSMF ¶11, but mischaracterizes the actual language of the Notice, in order to argue that the total amount due to cure the default on the first page of the Notice and the total on the Itemized Breakdown of the Total Amount Due are the same. The verbatim language in the Notice is "As of the date of this letter, the total amount to cure the default is \$20,930.04. (Exhibit F, Page 1, ¶ 1). The "Total" stated on the Exhibit A of the Notice entitled "Itemized Breakdown of the Total Amount Due" is \$20,257.66. (Exhibit F, Page 5). Plaintiff's argument as to how "...the total amount to cure the default is \$20,930.04" was actually stating that the total amount to cure the default was \$20,257.66 does not change the fact that \$20,930.04 is greater than \$20,257.66. (See Exhibit A, Page 2, ¶¶ 12-14; and Exhibit F, Page 1, ¶ 1 and Page 5).

POSMF 13. The last payment received from Defendant was a check for \$720.00 dated November 18, 2016. Affidavit of Lender, ¶7 and Exhibit 2.

DEFENDANTS' RESPONSE: Admitted.

POSMF 14. At the time of the last payment, the monthly payment due on the loan was \$742.54, and the payment submitted was not sufficient to make a full payment. Affidavit of Lender, ¶7.

DEFENDANTS' RESPONSE: Admitted.

POSMF 15. Under the terms of the mortgage in this case, if a borrower payment is insufficient to pay a full monthly payment, the full monthly payment remains outstanding, and the borrower's partial payment is held as a credit against the loan as a suspense until additional funds are paid, and those funds are added to the suspense balance to make a full payment, which is then applied to the earliest outstanding monthly payment. Affidavit of Lender ¶5, and the mortgage, page 4, ¶2 (Defendant's Exhibit C to her Statement of Facts).

DEFENDANTS' RESPONSE: Admitted.

POSMF 16. \$47.62 of Defendant's payment of \$720.00 was added to the then existing suspense balance to make a full payment, and was applied to the payment due for September, 2016, leaving a credit of \$672.62 in suspense. Affidavit of Lender ¶7 and Exhibit 1.

DEFENDANTS' RESPONSE: Admitted.

POSMF 17. At the time the Notice of Default was sent, the loan was in default for the failure to pay the payment due for October, 2016 and the additional payments due through November 2018. Affidavit of Lender ¶10 and Exhibit 3.

DEFENDANTS' RESPONSE: Admitted.

POSMF 18. The Notice of Default and Right to Cure instructs the Defendant to refer to Exhibit A for the itemized breakdown of the total amount due. Affidavit of Lender ¶10 and Exhibit 3.

DEFENDANTS' RESPONSE: Admitted.

POSMF 19. Exhibit A to the Notice of Default includes to suspense balance credit and states that the total amount due is \$20,257.66. Affidavit of Lender ¶10 and Exhibit 3, Exhibit A.

DEFENDANTS' RESPONSE: Admitted.

POSMF 20. The past due amounts that caused the loan to be in default include the payment due on October 2016 and total \$20,930.04, but do not include credits on the loan which are a past due amount. The credit of \$672.38 is applied to the past due amount to determine the total amount due of \$20,257.66. Lender's Affidavit ¶10 and Exhibit 3.

DEFENDANTS' RESPONSE: Admitted.

Dated at Turner, this 7 day of October, 2021.

Respectfully submitted,



Kendall A. Ricker, Esq. BRN #5342
Attorney for Defendant

Boothby, Silver & Ricker, LLC
22 School House Hill Road
PO BOX 216
Turner, Maine 04282
(207) 225-5044
kendall@boothbysilver.com

IMPORTANT NOTICE

PURSUANT TO RULE 56(i)(2) OF THE MAINE RULES OF CIVIL PROCEDURE, ANY RESPONSE TO THE OBJECTIONS CONTAINED HEREIN, SHALL BE FILED NOT LATER THAN 7 DAYS AFTER THE FILING OF THIS REPLY, UNLESS ANOTHER TIME IS SET BY THE COURT. ANY RESPONSE TO THE OBJECTIONS MUST COMPLY WITH THE REQUIREMENTS OF RULE 56(i)(2), WITH CITATIONS TO POINTS IN THE RECORD OR IN AFFIDAVITS FILED TO SUPPORT THE RESPONSE. NOT COMPLYING WITH RULE 56(i)(2) IN RESPONDING TO THE OBJECTIONS MAY RESULT IN ENTRY OF JUDGMENT WITHOUT HEARING.

NOTE

March 18, 2009
[Date]

Buckfield
[City]

Maine
[State]

52 Morrill Street
Buckfield, ME 04220
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$62,985.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is Taylor, Bean & Whitaker Mortgage Corp.

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 5.5000%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the 1st day of each month beginning on May 01, 2009.

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on April 01, 2039, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at Taylor, Bean & Whitaker Mortgage Corp., 1417 North Magnolia Ave, Ocala, FL 34475

or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 357.62

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

MAINE FIXED RATE NOTE—Single Family—Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

(ITEM T0558L1 (0105))

(Page 1 of 3 pages)

Form 3220 1/01

GREATLIFE

To Order Call: 1-800-530-0393 Fax: 616-791-1131

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of **Fifteen** calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be **4.0000%** of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in

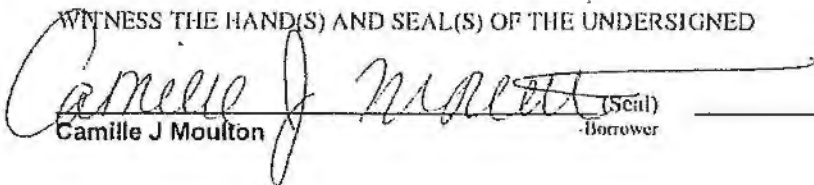
this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Lender may require immediate payment in full of all Sums Secured by this Security Instrument if all or any part of the Property, or if any interest in the Property, is sold or transferred without Lender's prior written permission. If Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred without Lender's prior written permission, Lender also may require immediate payment in full. However, Lender will not require immediate payment in full if prohibited by federal law.

If Lender requires immediate payment in full under this Section 18, Lender will give me a notice which states this requirement, following the procedures in Section 15. The notice will give me at least 30 days to make the required payment. The 30-day period will begin on the date the notice is mailed or delivered. If I do not make the required payment during that period, Lender may act to enforce its rights under this Security Instrument without giving me any further notice or demand for payment.

Borrower has executed and acknowledges receipt of pages 1 through 3 of this Note.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED

 (Seal) (Seal)
Camille J Moulton Borrower Borrower

(Seal) (Seal)
Borrower Borrower

(Seal) (Seal)
Borrower Borrower

Without recourse, pay to the order of

[Sign Original Only]

By: Taylor, Bean & Whitaker
Mortgage Corp.



Eric Carter-Shaw, E.V.R.

Exhibit B

After Recording Return To:
FIRST SUBURBAN TITLE COMPANY

652 MAIN STREET

GORHAM, ME 04038

[Space Above This Line For Recording Data]

MORTGAGE

MIN: 

WORDS USED OFTEN IN THIS DOCUMENT

Words used in multiple sections of this document are defined below. Other words are defined in Sections 3, 5, 8, 10, 11, 13, 18, 20 and 21. Certain rules about the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated **March 18, 2009**. The term "Security Instrument" includes any Riders recorded with the Security Instrument.

(B) "Borrower" means **Camille Moulton**

who sometimes will be called "Borrower" and sometimes simply "I" or "me." "Borrower" is granting a mortgage under this Security Instrument. "Borrower" is not necessarily the same as the Person or Persons who signed the Note. The obligations of Borrowers who did not sign the Note are explained further in Section 13.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS. **FOR PURPOSES OF RECORDING THIS MORTGAGE, MERS IS THE MORTGAGEE OF RECORD.**

(D) "Lender" means **Taylor, Bean & Whitaker Mortgage Corp.**
Lender is a corporation or association which exists under the laws of FL
Lender's address is **1417 North Magnolia Ave, Ocala, FL 34475**

Except as provided in Sections 13 and 20, the term "Lender" may include any Person who takes ownership of the Note and this Security Instrument.

MAINE—Single Family—Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

MERS
ITEM 2093L1 (0810)

 Form 3020 1/01

GreatDocs™
(Page 1 of 14)
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(E) "Note" means the note signed by **Camille J Moulton**

and dated **March 18, 2009**. The Note shows that its signer or signers owe Lender **Sixty Two Thousand Nine Hundred Eighty Five and no/100** Dollars (U.S. **\$62,985.00**) plus interest and promise to pay this debt in Periodic Payments and to pay the debt in full by **April 01, 2039**.

(F) "Property" means the property that is described below in the section titled "Description of the Property" or any portion of the Property.

(G) "Sums Secured" means the unpaid balance of amounts described below in the section titled "Borrower's Transfer to Lender of Rights in the Property."

(H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- | | | |
|--|---|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Other(s) [specify] |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Biweekly Payment Rider | |

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section 3.

(N) "Miscellaneous Proceeds" means any monies or other thing of value paid by any third party, other than insurance proceeds paid under the coverages described in Section 5, for: (i) damage to, or destruction of, the Property; (ii) Condemnation or other taking of all or any part of the Property (see Section 11 for an explanation of "Condemnation"); (iii) conveyance in lieu of Condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. When this Security Instrument refers to a requirement or restriction under "RESPA," Lender intends to abide by that requirement or restriction, even if it is not technically applicable to the Loan.

CM

(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

(S) "Ground Rents" means amounts I owe if I rented the real property under the buildings covered by this Security Instrument. Such an arrangement usually takes the form of a long-term "ground lease."

BORROWER'S TRANSFER TO LENDER OF RIGHTS IN THE PROPERTY

I mortgage, grant and convey the Property to MERS (solely as nominee for Lender and Lender's successors and assigns), with mortgage covenants, subject to the terms of this Security Instrument, to have and to hold all the Property to MERS (solely as nominee for Lender and Lender's successors and assigns), and to its successors and assigns, forever. This means that, by signing this Security Instrument, I am giving Lender those rights that are stated in this Security Instrument and also those rights that Applicable Law gives to Lenders who hold mortgages on real property. Those rights that Applicable Law gives to Lenders who hold mortgages on real property include those rights known as "Mortgage Covenants." I am giving Lender these rights to protect Lender from possible losses that might result if:

- (A) Some or all of the Loan is not paid when due;
- (B) I fail to pay, with interest, any amounts that Lender spends under Section 9 of this Security Instrument to protect the value of the Property and Lender's rights in the Property; or
- (C) I fail to keep any of my other promises and agreements under this Security Instrument. These amounts are the "Sums Secured."

I understand and agree that MERS holds only legal title to the rights granted by me in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right:

- (A) to exercise any or all of those rights, including, but not limited to, the right to foreclose and sell the Property; and
- (B) to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

DESCRIPTION OF THE PROPERTY

I grant and mortgage to MERS (solely as nominee for Lender and Lender's successors in interest) the Property described in (A) through (G) below:

(A) The Property which is located at

52 Morrill Street
[Street]

Buckfield
[City]

, Maine

04220
[Zip Code]

("Property Address").

This Property is in Oxford
See Attached Exhibit A.

County. It has the following legal description:

- (B) All buildings and other improvements that are located on the Property described in subsection (A) of this section;
- (C) All rights in other property that I have as owner of the Property described in subsection (A) of this section. These rights are known as "easements and appurtenances attached to the Property;"
- (D) All rights that I have in the land which lies in the streets or roads in front of, or next to, the Property described in subsection (A) of this section;
- (E) All fixtures that are now or in the future will be on the Property described in subsections (A) and (B) of this section;

Exhibit A

(52 Morrill Street, Buckfield, Oxford (East) County, ME)

A certain lot or parcel of land with the buildings thereon, situated on Morrill Street, so-called, in the Village of Buckfield, County of Oxford and State of Maine, bounded and described as follows:

Southerly by said Morrill Street; Westerly and Northerly by land of Stanley E. DeCoster and Easterly by land of Minnie E. Gile.

CMY

- (F) All of the rights and property described in subsections (B) through (E) of this section that I acquire in the future; and
- (G) All replacements of or additions to the Property described in subsections (B) through (F) of this section.

BORROWER'S RIGHT TO MORTGAGE THE PROPERTY AND BORROWER'S OBLIGATION TO DEFEND OWNERSHIP OF THE PROPERTY

I promise that: (A) I lawfully own the Property; (B) I have the right to mortgage, grant and convey the Property to Lender; and (C) there are no outstanding claims or charges against the Property, except for those which are of public record.

I give a general warranty of title to Lender. This means that I will be fully responsible for any losses which Lender suffers because someone other than myself has some of the rights in the Property which I promise that I have. I promise that I will defend my ownership of the Property against any claims of such rights.

PLAIN LANGUAGE SECURITY INSTRUMENT

This Security Instrument contains promises and agreements that are used in real property security instruments all over the country. It also contains promises and agreements that vary, to a limited extent, in different parts of the country. My promises and other agreements are stated in "plain language."

COVENANTS

I promise and I agree with Lender as follows:

1. **Borrower's Promise to Pay.** If I signed the Note, I will pay to Lender when due principal and interest due under the Note and any prepayment charges and late charges due under the Note. Regardless of whether I signed the Note, I will pay funds for Escrow Items as described in Section 3. I will make all payments in U.S. currency. If any Borrower makes any Loan payment to Lender with a check or other instrument that is returned for any reason (i.e., the check bounces), except when prohibited by Applicable Law, the Lender may require that any subsequent payment be made by: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check (all of which must be drawn on an institution whose deposits are insured by a federal agency, instrumentality, or entity); or (d) Electronic Funds Transfer. Lender may reasonably specify which payment form is required.

Payments are only considered received when they reach the Lender's address specified in the Note, or a different address specified by Lender under Section 15 of this Security Instrument. Lender may return any payments or partial payments if the payments are insufficient to bring the Loan current. Lender may accept any payments or partial payments insufficient to bring the Loan current, but doing so will not affect Lender's rights under this Security Instrument, and Lender may still refuse such late, partial payments in the future.

I agree that no claim or legal right I may have against the Lender will excuse my obligation to make timely payments under the Loan or to keep my other promises in this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender will be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts payable under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts will be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from me for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent Periodic Payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from me to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary extra payments must be applied first to any charges for making voluntary extra payments and then as described in the Note.

If voluntary extra payments I may make or the crediting of insurance proceeds or Miscellaneous Proceeds to the Note are enough to pay principal ahead of schedule, I must still make my regularly scheduled Periodic Payments under the Note, when scheduled, without any delay or reduction of amount.



3. Monthly Payments for Taxes and Insurance.

(a) **Borrower's Obligations.** I will pay to Lender all amounts necessary to pay for taxes, assessments, ground leasehold payments or rents (if any), hazard or property insurance covering the Property, flood insurance (if any), and any required Mortgage Insurance, or a loss reserve as described in Section 10 in the place of Mortgage Insurance. Each Periodic Payment will include an amount to be applied toward the payment of the following items, which are called "Escrow Items;"

- (1) The taxes, assessments and other items which under the Applicable Law may be or become superior to this Security Instrument as a lien on the Property. Any claim, demand or charge that is made against property because an obligation has not been fulfilled is known as a "lien;"
- (2) The leasehold payment or Ground Rents on the Property (if any);
- (3) The premium for insurance covering the Property required under Section 5;
- (4) The premium for Mortgage Insurance (if any);
- (5) The amount I may be required to pay Lender under Section 10 below instead of the payment of the premium for Mortgage Insurance (if any); and
- (6) If Lender requires, Community Association Dues, Fees, and Assessments.

After signing of the Note, or at any time during its term, Lender may include these amounts as Escrow Items. The monthly payment that I will make for Escrow Items will be based on Lender's estimate of the annual amount required.

I will pay all of these amounts to Lender unless Lender tells me, in writing, that I do not have to do so, or unless Applicable Law requires otherwise. I will make these payments on the same day that my Periodic Payments of principal and interest are due under the Note.

I will promptly send Lender a copy of all notices of amounts to be paid under this Section. I must pay Lender for Escrow Items as part of my regular Periodic Payments, unless Lender excuses this requirement in writing. If Lender excuses me in writing, I will pay all Escrow Items covered by the excuse, directly and on time. I will provide receipts proving my direct payments of Escrow Items on request and in the time period Lender requires. If Lender excuses me from paying Escrow Items to Lender and if I fail to pay any amount due for an Escrow Item directly, Lender may pay such amount under Section 9, and I will be obligated to repay Lender, plus interest at the Note rate. Lender may revoke the excuse regarding any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, I will pay to Lender all Funds (defined below), and in such amounts, that are then required under this Section 3.

The amounts that I pay to Lender for Escrow Items under this Section 3 will be called the "Funds." The Funds are pledged as additional security for all Sums Secured.

Lender may, at any time, collect and hold Funds in an amount (1) sufficient to permit Lender to apply the Funds at the time specified under RESPA, but (2) not to exceed the maximum amount a lender can require under RESPA. Lender will estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

(b) **Lender's Obligation.** Lender will keep the Funds in a savings or banking institution which has its deposits insured by a federal agency, instrumentality, or entity, or in any Federal Home Loan Bank. If Lender is such a savings or banking institution, Lender may hold the Funds. Lender will use the Funds to pay the Escrow Items. Lender will give to me, without charge, an annual accounting of the Funds. That accounting must show all additions to and deductions from the Funds and the reason for each deduction in the manner required by RESPA.

Lender may not charge me for holding or keeping the Funds, or for using the Funds to pay Escrow Items, or for making a yearly analysis of my payment of Funds or for receiving, verifying and totaling assessments and bills. Maine law requires payment of, and Lender agrees to pay me, interest on the Funds in the manner and amount set forth in Maine law.

(c) **Adjustments to the Funds.** If there is a surplus of Funds held in escrow, as defined under RESPA, Lender will report to me regarding the excess funds in accordance with RESPA. If there is a shortage or deficiency of Funds held in escrow, as defined under RESPA, Lender will notify me as required by RESPA and I will pay to Lender the amount necessary to make up the shortage or deficiency as required by RESPA, but in no more than 12 monthly payments.

When I have paid all of the Sums Secured, Lender will promptly refund to me any Funds that are then being held by Lender.

4. **Borrower's Obligation to Pay Charges, Assessments and Claims.** I will pay all taxes, assessments, and any other charges and fines that may be imposed on the Property and that may be or become superior to this Security Instrument. If I am a tenant under a ground lease on the Property, I will also pay Ground Rents or payments due under my ground lease. I will also pay any Community Association Dues, Fees, and Assessments. I will do this either by making the payments to Lender that are described in Section 3 above or, if I am not required to make payments to Lender under Section 3, by making the payments on time to the Person owed them. In this Security Instrument, the word "Person" means any natural person, organization, governmental authority or other party.



I will promptly pay or satisfy all liens against the Property that may be or become superior to this Security Instrument. However, this Security Instrument does not require me to satisfy a superior lien if: (a) I agree, in writing, to pay the obligation which gave rise to the superior lien and Lender approves the way in which I agree to pay that obligation (but I must fully perform my agreement or this exception does not apply); (b) in good faith, I argue or defend against the superior lien in a lawsuit so that, during the lawsuit, the superior lien may not be enforced (but this exception ends when the lawsuit ends); or (c) I secure from the holder of that other lien an agreement, approved in writing by Lender, that the lien of this Security Instrument is superior to the lien held by that Person. If Lender determines that any part of the Property is subject to a superior lien, Lender may give me a notice identifying the superior lien. I will pay or satisfy the superior lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. Borrower's Obligation to Maintain Hazard Insurance or Property Insurance; Use of Insurance Proceeds. I will obtain hazard or property insurance to cover all buildings and other improvements that now are or in the future will be located on the Property. The insurance must cover loss or damage caused by: (a) fire; (b) hazards normally covered by "extended coverage" hazard insurance policies; and (c) other hazards for which Lender requires coverage, including floods and earthquakes. The insurance must be in the amounts (including deductibles) and for the periods of time required by Lender. Lender's requirements can change during the term of the Loan. I may choose the insurance company, but my choice is subject to Lender's approval. Lender may not refuse to approve my choice unless the refusal is reasonable. If I do not maintain any of the insurance coverages described above, Lender may obtain insurance coverage at its option and charge me in accordance with Section 9 below.

Lender is under no obligation to purchase any particular type or amount of coverage. Lender's coverage will protect Lender, but might or might not protect me, my equity in the Property, or the contents of the Property, against any risk, hazard, or liability and might provide greater or lesser coverage than was previously in effect. I acknowledge that the cost of the Lender's insurance coverage might significantly exceed the cost of insurance that I could have obtained. Any amounts paid by Lender under this Section 5 will become my additional debt secured by this Security Instrument. These amounts will bear interest at the Note rate from the date of disbursement and will be payable, with interest, upon notice from Lender to me requesting payment.

Lender may require me to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. I will also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from my objection.

All of the insurance policies required by Lender and renewals of those policies: (a) are subject to Lender's right to disapprove; (b) must include what is known as a "standard mortgage clause" to protect Lender; and (c) must name Lender as mortgagee and/or as an additional loss payee. The form of all policies and renewal certificates must be acceptable to Lender. Lender will have the right to hold the policies and renewal certificates. If Lender requires, I will promptly give Lender all receipts for paid premiums and renewal notices that I receive.

If I obtain additional insurance for damage to or destruction of the Property not required by Lender, I will ensure that it contains a standard mortgage clause and names Lender as mortgagee and/or as an additional loss payee.

If there is a loss or damage to the Property, I will promptly notify the insurance company and Lender. If I do not promptly prove to the insurance company that the loss or damage occurred, then Lender may do so.

The amount paid by any insurance company with regard to the Property is called "Proceeds." The Proceeds will be used to repair or to restore the damaged Property whether or not the underlying insurance was required by Lender unless: (a) it is not economically feasible to make the repairs or restoration; (b) the use of the Proceeds for that purpose would lessen the protection given to Lender by this Security Instrument; or (c) Lender and I have agreed in writing not to use the Proceeds for that purpose. If the repair or restoration is not economically feasible or if it would lessen Lender's protection under this Security Instrument, then the Proceeds will be used to pay the Sums Secured. If any of the Proceeds remain after the amount that I owe to Lender has been paid in full, the remaining Proceeds will be paid to me. Such insurance proceeds will be applied in the order provided for in Section 2.

During the repair and restoration period, Lender will have the right to hold insurance proceeds until Lender has had an opportunity to inspect the Property to ensure the work has been completed to Lender's satisfaction. Lender will arrange the inspection promptly. Lender may disburse Proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender will not be required to pay me any interest or earnings on Proceeds. Fees for public adjusters, or other third parties I retain, will not be paid out of the insurance proceeds and will be my sole obligation.

If I abandon the Property, or if I do not answer, within 30 days a notice from Lender stating that the insurance company has offered to settle a claim, Lender may negotiate and settle any insurance claim. The 30-day period will begin when the notice is given.

If I abandon the Property, do not answer the notice, or if Lender acquires the Property under Section 22 below or otherwise, all of my rights in all insurance policies covering the Property will belong to Lender, other than the right to any refund of unearned premiums I have paid. Lender may use the insurance proceeds either to repair or restore the Property or to pay the Sums Secured, whether or not then due. However, Lender's rights in those Proceeds will not be greater than the Sums Secured.

6. **Occupancy.** I will occupy the Property and use the Property as my principal residence within 60 days after I sign this Security Instrument. I will continue to occupy the Property and to use the Property as my principal residence for at least one year. The one-year period will begin when I first occupy the Property. However, I will not have to occupy the Property and use the Property as my principal residence within the time frames set forth above if Lender agrees in writing that I do not have to do so. Lender may not refuse to agree unless the refusal is reasonable. I also will not have to occupy the Property and use the Property as my principal residence within the time frames set forth above if extenuating circumstances exist which are beyond my control.

7. **Borrower's Obligation to Maintain and Protect the Property; Inspections.** I will keep the Property in good repair. I will not destroy, damage or harm the Property, and I will not allow the Property to deteriorate or diminish in value due to its condition whether or not I am residing in the Property. In addition, I will promptly repair the Property, if damaged, to avoid further deterioration or damage unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, I will be responsible for repairing or restoring the Property only if Lender has released Proceeds for such purposes. Lender may disburse Proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, I will not be relieved of my obligation to complete such repair or restoration.

Lender or its agents may enter and inspect the Property at reasonable times. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender will give me notice prior to an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** If, during the application process for the Loan, I made false, misleading, incomplete, or inaccurate statements to Lender about information important to Lender in determining my eligibility for the Loan ("Material Information"), Lender will treat my actions as a default under this Security Instrument. I will also be in default if I knew about or consented to any other Person giving false, misleading, incomplete, or inaccurate statements about Material Information to Lender. False, misleading, incomplete, or inaccurate statements about Material Information would include a misrepresentation of my intention to occupy the Property as a principal residence. This is just one example of a false, misleading, incomplete, or inaccurate statement of Material Information. Also, if during the loan application process I failed to provide Lender with Material Information, Lender will treat this as a default under this Security Instrument. I will also be in default if I knew about or consented to any other Person failing to provide Lender with Material Information.

9. **Lender's Right to Protect its Rights in the Property.** If: (a) I do not keep my promises and agreements made in this Security Instrument; (b) someone, including me, begins a legal proceeding that may significantly affect Lender's interest in the Property or rights under this Security Instrument (such as a legal proceeding in bankruptcy, in probate, for Condemnation or Forfeiture, for enforcement of a lien which may become superior to this Security Instrument or to enforce laws or regulations); or (c) I abandon the Property, then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding, may include appearing in court, paying reasonable attorneys' fees, paying superior liens on the Property, protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Securing the Property includes, for example, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. I agree that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

I will pay to Lender any amounts, with interest, which Lender spends under this Section 9. I will pay those amounts to Lender when Lender sends me a notice requesting that I do so. I will also pay interest on those amounts at the Note rate. Interest on each amount will begin on the date that the amount is spent by Lender.

If I do not own but am a tenant on the Property, I will fulfill all my obligations under my lease. I also agree that, if I subsequently purchase or otherwise become the owner of the Property, my interest as the tenant and my interest as the owner will remain separate unless Lender agrees in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, I will pay the premiums for the Mortgage Insurance. If, for any reason, the Mortgage Insurance coverage required by Lender lapses or ceases to be available from the original mortgage insurer, I will pay the premiums for substantially equivalent Mortgage Insurance coverage from an alternate mortgage insurer selected by Lender.

If substantially equivalent Mortgage Insurance coverage is not available and if I was required to make separately designated payments toward the premiums for Mortgage Insurance, Lender will establish a loss reserve as a substitute for the Mortgage Insurance coverage. I will pay to Lender each month an amount equal to one-twelfth of the yearly Mortgage Insurance premium (as of the time the coverage lapsed or ceased to be in effect). Lender will retain these payments, and will use these payments to pay for losses that the Mortgage Insurance would have covered. Such loss reserve will not be refundable.

Lender will no longer require loss reserve payments if Mortgage Insurance coverage again becomes available and is obtained. In that case, I will once again make Mortgage Insurance premiums. The Mortgage Insurance coverage must be in the amount and for the period of time required by Lender. Lender must approve the insurance company providing the coverage.

I will pay the Mortgage Insurance premiums, or the non-refundable loss reserve payments, until the requirement for Mortgage Insurance ends according to any written agreement between Lender and me providing for such termination or until termination of Mortgage Insurance is required by Applicable Law. Lender may require me to pay the premiums, or the loss reserve payments, in the manner described in this Section 10.

This Section 10, and the existence or termination of my obligation to pay Mortgage Insurance premiums or reserve payments, does not affect my obligation to pay interest under the Note at the rate set by the Note.

A Mortgage Insurance policy pays Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance policy.

Mortgage insurers assess their total risk on all Mortgage Insurance from time to time. Mortgage insurers may enter into agreements with other parties to share or change their risk, or to reduce losses. These agreements are based on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include Mortgage Insurance premiums).

As a result of these agreements, Lender, any owner of the Note, another insurer, any reinsurer, or any other entity, may receive (directly or indirectly) amounts that come from a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or changing the mortgage insurer's risk, or reducing losses. If these agreements provide that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." It also should be understood that: (a) any of these agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. These agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund; and (b) any of these agreements will not affect the rights Borrower has—if any—regarding the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right (a) to receive certain disclosures, (b) to request and obtain cancellation of the Mortgage Insurance, (c) to have the Mortgage Insurance terminated automatically, and/or (d) to receive a refund of any Mortgage Insurance premiums that were not earned at the time of such cancellation or termination.

11. Agreements about Miscellaneous Proceeds and Condemnation of the Property. I assign to Lender all Miscellaneous Proceeds (as defined above in subsection (N) of the section entitled "Words Used Often In This Document"). All Miscellaneous Proceeds will be paid to Lender. Miscellaneous Proceeds include, among other things, awards or claims for damages for Condemnation. A taking of property by any governmental authority by eminent domain is known as "Condemnation."

If the Property is damaged, all Miscellaneous Proceeds will be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During the repair and restoration period, Lender will have the right to hold Miscellaneous Proceeds until Lender has had an opportunity to inspect the Property to ensure the work has been completed to Lender's satisfaction. Lender will arrange the inspection promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Miscellaneous Proceeds, Lender will not be required to pay me any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds will be applied to the Sums Secured by this

Security Instrument, whether or not then due, with the excess, if any, paid to me. Such Miscellaneous Proceeds will be applied in the order provided for in Section 2.

If all of the Property is taken or destroyed, the Miscellaneous Proceeds will be used to reduce the Sums Secured, whether or not then due. If any of the Miscellaneous Proceeds remain after the Loan has been paid in full, the remaining proceeds will be paid to me.

Unless Lender and I agree otherwise in writing, if only a part of the Property is taken or destroyed, and the fair market value of the Property immediately before the partial taking or destruction either is equal to, or greater than, the amount of the Sums Secured immediately before the partial taking or destruction, then a portion of the Miscellaneous Proceeds will be applied to pay a portion of the Loan. That portion will equal the Miscellaneous Proceeds multiplied by a fraction. That fraction is as follows: (a) the total amount of the Sums Secured immediately before the partial taking or destruction; divided by (b) the fair market value of the Property immediately before the partial taking or destruction. The remainder of the Miscellaneous Proceeds will be paid to me.

Unless Lender and I agree otherwise in writing or unless Applicable Law requires otherwise, if only a part of the Property is taken or destroyed, and the fair market value of the Property immediately before the partial taking or destruction is less than the amount of the Sums Secured immediately before the partial taking or destruction, the proceeds will be used to reduce the Sums Secured whether or not then due.

If I abandon the Property, or if I do not answer within 30 days, a notice from Lender stating that the Opposing Party (as defined below) offered to make an award to settle a claim for damages, Lender has the authority to settle any claim and collect the proceeds. "Opposing Party" means the third party that owes me Miscellaneous Proceeds or the party against whom I have a legal action in regard to Miscellaneous Proceeds. Lender may then use the Miscellaneous Proceeds to repair or restore the Property or to reduce the Sums Secured. The 30-day period will begin when the notice is given.

I will be in default if any lawsuit or other legal proceeding is brought seeking Forfeiture of the Property or seeking any other significant reduction of Lender's interest in the Property or rights under this Security Instrument. "Forfeiture" means a legal order or judgment that takes away some or all of my rights in the Property, whether in a civil or in a criminal proceeding. I can cure that default by causing the lawsuit or legal proceeding to be dismissed with a legal ruling that, in Lender's reasonable judgment, precludes any Forfeiture or any other significant reduction of Lender's interest in the Property or rights under this Security Instrument. If there is any award or claim for damages for the reduction of Lender's interest or rights, the proceeds of that award or claim are assigned to and will be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property will be applied in the order provided for in Section 2.

12. Continuation of Borrower's Obligations and of Lender's Rights.

(a) **Borrower's Obligations.** Lender may allow me, any Borrower, and any Successor in Interest of Borrower to delay or to change the amount of the Periodic Payments of principal and interest due under the Note or under this Security Instrument. Even if Lender does this, however, that Person and I will both still be fully obligated under the Note and under this Security Instrument.

Lender may allow those delays or changes for a Successor in Interest of Borrower, even if Lender is requested not to do so. Lender will not be required to bring a lawsuit against a Successor in Interest of Borrower for not fulfilling obligations under the Note or under this Security Instrument, even if Lender is requested to do so by Borrower or a Successor in Interest of Borrower.

(b) **Lender's Rights.** Even if Lender does not exercise or enforce any right of Lender under this Security Instrument or under Applicable Law, Lender will still have all of those rights and may exercise and enforce them in the future. Even if: (1) Lender obtains insurance, pays taxes, or pays other claims, charges or liens against the Property; (2) Lender accepts payments from third Persons or Successors in Interest; or (3) Lender accepts payments in amounts less than the amount then due, Lender will have the right under Section 22 below to demand that I make immediate payment in full of any amounts remaining due and payable to Lender under the Note and under this Security Instrument.

13. **Obligations of Borrower and of Persons Taking over Borrower's Rights or Obligations.** Except as provided in Section 18, any Successor in Interest of Borrower who takes over my rights or obligations under this Security Instrument in writing and who is approved by Lender will have all of my rights and will be obligated to keep all of my promises and agreements made in this Security Instrument. I will not be released from my liability under this Security Instrument unless Lender agrees to that release in writing. Any Person who takes over Lender's rights or obligations under this Security Instrument will have all of Lender's rights and will be obligated to keep all of Lender's agreements made in this Security Instrument, except as provided in Section 20.

If more than one Person signs this Security Instrument as Borrower, each of us is fully obligated to keep all of Borrower's promises and obligations contained in this Security Instrument. Lender may enforce Lender's rights under this Security

Instrument against each of us individually or against all of us together. This means that any one of us may be required to pay all of the Sums Secured. However, if one of us does not sign the Note: (a) that Person is signing this Security Instrument only to give that Person's rights in the Property to Lender under the terms of this Security Instrument; (b) that Person is not personally obligated to pay the Sums Secured; and (c) that Person agrees that Lender can agree with the other Borrowers to delay enforcing any of Lender's rights or to modify or make any accommodations with regard to the terms of this Security Instrument or the Note without that Person's consent.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection, and valuation fees. In regard to any other fees, the fact that this Security Instrument does not expressly authorize Lender to charge a specific fee to Borrower should not be interpreted to be a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits: (a) any such loan charge will be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). My acceptance of any such refund made by direct payment to me will constitute a waiver of any right of action I might have arising out of such overcharge, unless Applicable Law expressly provides otherwise.

15. Notices Required under this Security Instrument. All notices given by me or Lender in connection with this Security Instrument must be in writing. Any notice that must be given to me under this Security Instrument will be given by delivering it or by mailing it by first class mail unless Applicable Law requires use of another method. The notice will be effective or "given" when mailed (or, if not mailed, when actually delivered) to my address, unless Applicable Law requires otherwise. Notice to any one Borrower will constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice will be addressed to me at the address stated in the section above titled "Description of the Property." A notice will be given to me at a different address if I give Lender a notice of my different address. I will promptly notify Lender of my change of address. If Lender specifies a procedure for reporting my change of address, then I will only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time.

Any notice that must be given to Lender under this Security Instrument will be given by delivering or mailing it to Lender's address stated in subsection (C) of the section above entitled "Words Used Often In This Document." A notice will be mailed or delivered to Lender at a different address if Lender gives me a notice of the different address. A notice to Lender required by this Security Instrument is not given until it is actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Law that Governs this Security Instrument; Interpretation. This Security Instrument is governed by federal law and the law that applies in the place where the Property is located. If any term of this Security Instrument or of the Note conflicts with the Applicable Law, the conflict will not affect other provisions of this Security Instrument or the Note which can operate, or be given effect, without the conflicting provision. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence will not be construed as a prohibition against agreement by contract.

As used in this Security Instrument: (a) words of the masculine gender will mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular will mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. I will be given one copy of the Note and of this Security Instrument.

18. Agreements about Lender's Rights If the Property Is Sold or Transferred. As used in this Section 18, "Interest in the Property" means any interest in the Property recognized or protected by Applicable Law including, for example, those interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, if the intent is the transfer of title by Borrower at a future date to a purchaser.

Lender may require immediate payment in full of all Sums Secured by this Security Instrument if all or any part of the Property, or if any interest in the Property, is sold or transferred without Lender's prior written permission. If Borrower is not a natural Person and a beneficial interest in Borrower is sold or transferred without Lender's prior written permission, Lender

also may require immediate payment in full. However, Lender will not require immediate payment in full if prohibited by Applicable Law.

If Lender requires immediate payment in full under this Section 18, Lender will give me a notice which states this requirement, following the procedures in Section 15. The notice will give me at least 30 days to make the required payment. The 30-day period will begin on the date the notice is mailed or delivered. If I do not make the required payment during that period, Lender may act to enforce its rights under this Security Instrument without giving me any further notice or demand for payment.

19. Borrower's Right to Have Lender's Enforcement of this Security Instrument Discontinued. Even if Lender has required immediate payment in full, I may have the right to have enforcement of this Security Instrument discontinued. I will have this right at any time before the earliest of: (a) five days before sale of the Property under any power of sale granted by this Security Instrument; (b) such other period as Applicable Law might specify for the termination of my right to reinstate; or (c) before a judgment has been entered enforcing this Security Instrument, if I meet the following conditions:

- (1) I pay to Lender the full amount that then would be due under this Security Instrument and the Note as if immediate payment in full had never been required;
- (2) I correct my failure to keep any of my other promises or agreements made in this Security Instrument;
- (3) I pay all of Lender's reasonable expenses in enforcing this Security Instrument including, for example, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and
- (4) I do whatever Lender reasonably requires to assure that Lender's Interest in the Property, Lender's rights under this Security Instrument, and my obligations under the Note and under this Security Instrument continue unchanged.

Lender may require that I pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer.

If I fulfill all of the conditions in this Section 19, then the Note and this Security Instrument will remain in full effect as if immediate payment in full had never been required. However, I will not have the right to have Lender's enforcement of this Security Instrument discontinued if Lender has required immediate payment in full under Section 18 above.

20. Holder's Right to Sell the Note or an Interest in the Note; Borrower's Right to Notice of Change of Loan Servicer; Notice of Grievances. The Note, or an interest in the Note, together with this Security Instrument, can be sold one or more times. I might not receive any prior notice of these sales.

The entity that collects my Periodic Payments due under the Note and this Security Instrument and also performs other mortgage loan servicing obligations under the Note, this Security Instrument and Applicable Law is called the "Loan Servicer." There can be a change of the Loan Servicer as a result of the sale of the Note; there also can be one or more changes of the Loan Servicer unrelated to a sale of the Note. The law requires that I be given written notice of any change of the Loan Servicer. The written notice must be given in the manner required under RESPA. The notice will state the name and address of the new Loan Servicer, and also tell me the address to which I should make my payments. The notice also will contain any other information required by RESPA in connection with a notice of transfer of servicing. If the Note is sold, the Purchaser may hire a third party as Loan Servicer. In that case, the Loan Servicer, and not the Note Purchaser, will have mortgage loan servicing obligations to Borrower, except when the Note or Applicable Law expressly requires otherwise.

Lender and I agree that we will not start a lawsuit or legal proceeding or join, or be joined to, an existing lawsuit (such as a class action) that arises from the other party's actions pursuant to the Security Instrument or that claims the other party broke any promise or failed to fulfill any duty under this Security Instrument or relating to the Loan until: (a) the complaining party gives written notice in the manner provided in Section 15 to the other party; (b) the notice clearly describes the promise broken or the duty unfulfilled; and (c) the party receiving the notice is given a reasonable time to correct the problem. This provision does not apply if Applicable Law specifically authorizes a lawsuit by me against Lender under the facts in question and does not permit any cure or correction by Lender. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of default and opportunity to cure given to me pursuant to Section 22 and the demand for immediate payment in full given to Borrower pursuant to Section 18 will be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Continuation of Borrower's Obligations to Maintain and Protect the Property. The federal laws and the laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection are called "Environmental Laws."

Environmental Laws classify certain substances as toxic or hazardous. There are other substances that are considered hazardous for purposes of this Section 21. These are gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. The substances defined as toxic or hazardous or as pollutants or wastes by Environmental Laws and the substances considered hazardous for purposes of this Section 21 are called "Hazardous Substances."

An "Environmental Cleanup" includes any removal, remedial action or other response as defined in an Environmental Law. An "Environmental Condition" means a condition that can cause or contribute to or otherwise trigger an Environmental Cleanup.

Except as provided below: (a) I will not permit Hazardous Substances to be present on the Property; (b) I will not use or store Hazardous Substances on the Property; and (c) I will not allow anyone else to do so. I also will not dispose of Hazardous Substances on the Property, or release any Hazardous Substance on the Property, and I will not allow anyone else to do so. However, I may permit the presence on the Property of small quantities of Hazardous Substances that are generally recognized as appropriate for normal residential use and maintenance of the Property, and I may use or store these small quantities on the Property.

I will not do anything affecting the Property that violates Environmental Laws, and I will not allow anyone else to do so. I will not create an Environmental Condition affecting the Property or permit anyone else to do so or do anything which due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property.

If I know of: (a) any investigation, claim, demand, lawsuit or other action by the government or by a private party involving the Property and any Hazardous Substance or Environmental Laws; (b) any Environmental Conditions, for example, any spill or leak of any Hazardous Substance; or (c) any condition relating to a Hazardous Substance that reduces the value of the Property, I will promptly notify the Lender in writing. If the government or a private party notifies me (or I otherwise learn) that it is necessary to remove a Hazardous Substance affecting the Property or to take other remedial actions, I will promptly take all necessary remedial actions as required by Environmental Laws.

This Section does not require the Lender to conduct or pay for any Environmental Cleanup.

NON-UNIFORM COVENANTS

I also promise and agree with Lender as follows:

22. Lender's Rights If Borrower Fails to Keep Promises and Agreements. After the occurrence of the conditions stated in subsections (a), (b) and (c) below, Lender may require that I pay immediately the entire amount then remaining unpaid under the Note and under this Security Instrument. If all of the conditions stated in subsections (a), (b) and (c) of this Section 22 are met, Lender may do this without making any further demand for payment. This requirement is called "immediate payment in full."

Lender may also require immediate payment in full if any of the events described in Section 18 occur, even if the conditions stated in subsections (a), (b) and (c) below are not met.

If Lender requires immediate payment in full, Lender may bring a lawsuit to take away all of my remaining rights in the Property and have the Property sold. At this sale Lender or another Person may acquire the Property. This is known as "foreclosure and sale." In any lawsuit for foreclosure and sale, Lender will have the right to collect all costs allowed by law. These costs include reasonable attorneys' fees and costs of title evidence.

Lender may require immediate payment in full under this Section 22 only if all of the following conditions are met:

- (a) I fail to keep any promise or agreement made in this Security Instrument, including the promises to pay when due the Sums Secured;
- (b) Lender sends to me, in the manner described in Section 15 above, a notice that states:
 - (1) The promise or agreement that I failed to keep;
 - (2) The action that I must take to correct that default;
 - (3) A date by which I must correct the default. That date must be at least 30 days from the date on which the notice is given;
 - (4) That if I do not correct the default by the date stated in the notice, Lender may require immediate payment in full, and Lender or another Person may acquire the Property by means of foreclosure and sale;
 - (5) That if I meet the conditions stated in Section 19 above, I will have the right to have Lender's enforcement of this Security Instrument discontinued and to have the Note and this Security Instrument remain fully effective as if immediate payment in full had never been required; and

(6) That I have the right in any lawsuit for foreclosure and sale to argue that I did keep my promises and agreements under the Note and under this Security Instrument, and to present any other defenses that I may have; and

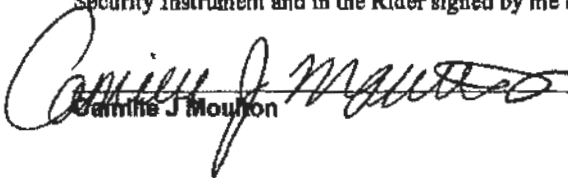
(c) I do not correct the default stated in the notice from Lender by the date stated in that notice.

23. **Lender's Obligation to Discharge this Security Instrument.** When Lender has been paid all amounts due under the Note and under this Security Instrument, Lender will discharge this Security Instrument by delivering to the appropriate Registry of Deeds a discharge or release stating that this Security Instrument has been satisfied. I will not be required to pay Lender for the discharge, but I will pay all costs of recording the discharge in the proper official records (unless those costs were collected in advance of my loan closing).

24. **Payment During Foreclosure.** I agree that Lender may accept rents from the Property, hazard insurance proceeds, condemnation awards, and any other monies produced by the Property or paid by me, even though Lender has demanded immediate payment in full and begun foreclosure and sale under Section 22 above. Lender may use such monies to pay off any part of the Sum Secured without affecting Lender's right to continue foreclosure and sale.

25. **Riders to this Security Instrument.** The promises and agreements of each Rider are incorporated as a part of this Security Instrument.

BY SIGNING BELOW, I accept and agree to the promises and agreements contained in pages 1 through 14 of this Security Instrument and in the Rider signed by me and recorded with it.


Camille J. Moulton (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

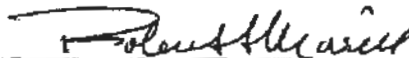
(Seal)
-Borrower

(Seal)
-Borrower

State of MAINE
County of ANDROSCOGG

The foregoing instrument was acknowledged before me this MARCH 18, 2009 (date) by
CAMILLE J. MOULTON

(name of person[s] acknowledged).



Notary Public

ROBERT S. MORRILL
NOTARY PUBLIC - MAINE
MY COMMISSION EXPIRES 01-23-2011

Received
Recorded Register of Deeds
Mar 23, 2009 12:34:02P
Oxford East County
Jane Rich

CMS Loan Number [REDACTED]

ASSIGNMENT OF MORTGAGE

FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, the undersigned, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR TAYLOR, BEAN & WHITAKER MORTGAGE CORP., ITS SUCCESSORS AND ASSIGNS, (ASSIGNOR), (MERS Address: P.O. Box 2026, Flint, Michigan 48501-2026) by these presents does convey, grant, assign, transfer and set over the described Mortgage with all interest secured thereby, all liens, and any rights due or to become due thereon to J.P. MORGAN MORTGAGE ACQUISITION CORP, WHOSE ADDRESS IS 1600 S. DOUGLASS RD SUITE 200-A, ANAHEIM, CA 92806 (949)517-5235, ITS SUCCESSORS AND ASSIGNS, (ASSIGNEE).

Said Mortgage is dated 03/18/2009, made by CAMILLE J. MOULTON to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR TAYLOR, BEAN & WHITAKER MORTGAGE CORP., ITS SUCCESSORS AND ASSIGNS and recorded on 03/23/2009 in Book 4418, Page 275 and Doc # 3942, in the office of the Recorder of OXFORD EAST County, Maine.

IN WITNESS WHEREOF, this assignment was executed on 3 / 21 / 2018 (MM/DD/YYYY).
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR TAYLOR, BEAN & WHITAKER MORTGAGE CORP., ITS SUCCESSORS AND ASSIGNS

By: [Signature]

Kristopher Sandberg
VICE PRESIDENT

All persons whose signatures appear above have qualified authority to sign and have reviewed this document and supporting documentation prior to signing.

STATE OF FLORIDA COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me on 3/21/2018 (MM/DD/YYYY), by Kristopher Sandberg as VICE PRESIDENT of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR TAYLOR, BEAN & WHITAKER MORTGAGE CORP., ITS SUCCESSORS AND ASSIGNS, who, as such VICE PRESIDENT being authorized to do so, executed the foregoing instrument for the purposes therein contained. He/she/they is (are) personally known to me.

[Signature]
Nicole Shields
Notary Public - State of FLORIDA
Commission expires: 08/05/2020



NICOLE SHIELDS
Notary Public - State of Florida
My Comm. Expires August 5, 2020
Commission # GG12825

Instrument Prepared By: Dave LaRose/NTC, 2100 Alt. 19 North, Palm Harbor, FL 34683 (800)346-9152
When Recorded Return To: Carrington Mortgage Services, C/O Nationwide Title Clearing, Inc. 2100 Alt. 19 North, Palm Harbor, FL 34683

[REDACTED] PRE-FORECLOSURE MIN [REDACTED] MERS PHONE 1-888-679-6377 MERS
Mailing Address: P.O. Box 2026, Flint, MI 48501-2026 DOCR [REDACTED] :54:33 [C-1] FRMMEL

Recorded: Oxford County 3/29/2018 01:42:59 PM
Patricia A Shearman Register of Deeds



QUITCLAIM ASSIGNMENT

WHEREAS, Taylor, Bean & Whitaker Mortgage Corp. is identified as the "Lender" on a certain mortgage executed by Camille Moulton recorded March 23, 2009 in the Eastern Oxford County Registry of Deeds in Book 4418, Page 275 (hereinafter the "Mortgage");

WHEREAS, Taylor, Bean & Whitaker Mortgage Corp. has certain rights that are described in the Mortgage;

WHEREAS, Mortgage Electronic Registration Systems, Inc. ("MERS") was designated the mortgagee in the Mortgage as the nominee of Taylor, Bean & Whitaker Mortgage Corp. and its successors and assigns, and MERS was the mortgagee of record;

WHEREAS, this Quitclaim Assignment is not intended to and does not modify or assign any of the rights, title or interests that MERS had in the Mortgage; and

WHEREAS, Taylor, Bean & Whitaker Mortgage Corp. wishes to convey and assign any and all rights it may have under the Mortgage.

Accordingly, Taylor, Bean & Whitaker Mortgage Corp. hereby assigns and quit claims all of its rights, title and interests (whatever they may be, if any) in the Mortgage to J.P. Morgan Mortgage Acquisition Corp.

A notary public or other officer completing this Certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

Carrington Mortgage Services, LLC, as attorney in fact for Government National Mortgage Association for Taylor, Bean & Whitaker pursuant to 12 U.S.C., 1721 (g)

Dated: 10/24/18

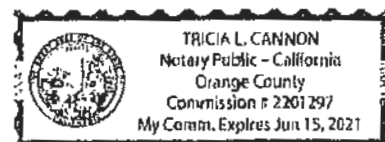
By: [Signature] Magda Awad
Title: Default Supervisor-Foreclosure
Type/Print Name: _____

STATE OF California
COUNTY OF Orange

Personally appeared before me this 24th day of October, 2018, the above-named Magda Awad, Default Supervisor on behalf of Carrington Mortgage Services, LLC, as attorney in fact for Government National Mortgage Association for Taylor, Bean & Whitaker Mortgage Corp. and acknowledged the foregoing to be his/her free act and deed in said capacity.

[Signature]
Type/Print Name: Tricia L. Cannon
Notary Public
My Commission Expires: 6-15-21

PROPERTY ADDRESS: 52 Morrill Street, Buckfield, ME 04220





P.O. Box 5001
Westfield, IN 46074

CAMILLE MOULTON
52 MORRILL ST
BUCKFIELD ME 04220-4221

Loan Number

Property Address:
52 MORRILL STREET
BUCKFIELD, ME 04220

11/22/2016

NOTICE OF RIGHT TO CURE

Dear Mortgagor(s):

The above-referenced loan serviced by Carrington Mortgage Services, LLC on behalf of J.P. MORGAN MORTGAGE ACQUISITION CORP. is in default because the monthly payment(s) due on and after 10/01/2016 have not been received. You have thirty-five (35) days from the date this notice is given to cure the default by paying the amounts that are past due. As of the date of this letter, the total amount to cure the default is \$20,930.04. Please refer to the attached *Exhibit A* for the itemized breakdown of the total amount due. The total amount due does not include any amounts that become due after the date of this notice.

Please remit the total amount due utilizing one of the following payment resources:

<u>First Class, Overnight or Certified Mail</u>	<u>Western Union</u>	<u>MoneyGram</u>
Carrington Mortgage Services, LLC	Quick Collect (any location)	Receive Code - 7998
Cashiering Dept. 2-270	Code City - CARRINGTONMS	
1600 South Douglass Road, Suites 110 & 200-A	Code State - CA	
Anaheim, CA 92806		

If you are unable to bring your account current, you may have available options other than foreclosure. You are encouraged to explore available options prior to the end of the right-to-cure period by contacting:

- Carrington Mortgage Services, LLC's toll free number at (800) 561-4567, Monday through Friday 8:00 a.m. to 8:00 p.m. Eastern Time; or by mail at P.O. Box 3010, Anaheim, CA 92803, or
- The Department of Housing and Urban Development's (HUD) Hotline Number at 1-800-569-4287 or you can visit their website for a list of HUD-approved counselors in Maine at <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?webListAction=search&searchstate=me> to find out other options you may have to avoid foreclosure. A list of HUD-approved counselors in Maine is attached to this notice as *Exhibit B*.

If you are interested in loan modification, please contact our Home Retention Department's toll free number at (800) 561-4567, or by mail at P.O. Box 3010, Anaheim, CA 92803.

Failure to cure the delinquency within thirty-five (35) days of the date this notice is given may result in acceleration of the sums secured by the mortgage and in the sale of the property. If you pay the total amount due before the time specified in this notice, you will be restored to all rights under the mortgage as though the default had not occurred. You also have the right in any lawsuit for foreclosure and sale to argue that you did keep your promises and agreements and to assert the nonexistence of a default or any other defense to acceleration and foreclosure. You may request mediation to explore options for avoiding foreclosure judgment.

You have the right to reinstate the loan after acceleration until such time as a foreclosure judgment has been entered if you: 1) pay the full amount that then would be due as if immediate payment in full had not been required; 2) correct your failure to keep any of your other promises or agreements made in the note and mortgage; 3) pay all of lender's reasonable expenses in enforcing the note and mortgage including, for example, reasonable attorney's fees; and 4) do whatever the lender reasonably requires to assure that lender's rights in the subject property, lender's rights under the note and mortgage, and your obligations under the note and mortgage remain unchanged. If you meet those conditions, you will have the right to have the enforcement of the mortgage discontinued and to have the note and mortgage remain fully effective as if payment in full had not been required.

Should you have any questions, please contact our Loan Counseling Department, toll free, at (800) 561-4567, Monday through Friday 8:00 a.m. to 8:00 p.m., Eastern Time.

Sincerely,

Loan Servicing Department
Carrington Mortgage Services, LLC

IMPORTANT DISCLOSURES

-VERBAL INQUIRIES & COMPLAINTS-

For verbal inquiries and complaints about your mortgage loan, please contact the CUSTOMER SERVICE DEPARTMENT for Carrington Mortgage Services, LLC, by calling 1-800-561-4567. The CUSTOMER SERVICE DEPARTMENT for Carrington Mortgage Services, LLC is toll free and you may call from 8:00 a.m. to 8:00 p.m. Eastern Time, Monday through Friday. You may also visit our website at <https://carringtonms.com/>.

-IMPORTANT BANKRUPTCY NOTICE-

If you have been discharged from personal liability on the mortgage because of bankruptcy proceedings and have not reaffirmed the mortgage, or if you are the subject of a pending bankruptcy proceeding, this letter is not an attempt to collect a debt from you but merely provides informational notice regarding the status of the loan. If you are represented by an attorney with respect to your mortgage, please forward this document to your attorney.

-CREDIT REPORTING-

We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report. As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

-MINI MIRANDA-

This communication is from a debt collector and it is for the purpose of collecting a debt and any information obtained will be used for that purpose. This notice is required by the provisions of the Fair Debt Collection Practices Act and does not imply that we are attempting to collect money from anyone who has discharged the debt under the bankruptcy laws of the United States.

-HUD COUNSELOR INFORMATION-

If you would like counseling or assistance, you may obtain a list of HUD-approved homeownership counselors or counseling organizations in your area by calling the HUD nationwide toll-free telephone number at (800) 569-4287 or toll-free TDD (800) 877-8339, or by going to <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>. You can also contact the CFPB at (855) 411-2372, or by going to www.consumerfinance.gov/find-a-housing-counselor.

-EQUAL CREDIT OPPORTUNITY ACT NOTICE-

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers CMS' compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

-SCRA DISCLOSURE-

MILITARY PERSONNEL/SERVICEMEMBERS: If you or your spouse is a member of the military, please contact us immediately. The federal Servicemembers Civil Relief Act and comparable state laws afford significant protections and benefits to eligible military service personnel, including protections from foreclosure as well as interest rate relief. For additional information and to determine eligibility please contact our Military Assistance Team toll free at (888) 287-5474.

-NOTICES OF ERROR AND INFORMATION REQUESTS, QUALIFIED WRITTEN REQUESTS (QWR)-

Written complaints and inquiries classified as Notices of Error and Information Requests or QWRs must be submitted to Carrington Mortgage Services, LLC by fax to 800-486-5134, or in writing to Carrington Mortgage Services, LLC, and Attention: Customer Service, P.O. Box 5001, Westfield, IN 46074. Please include your loan number on all pages of the correspondence. You have the right to request documents we relied upon in reaching our determination. You may request such documents or receive further assistance by contacting the CUSTOMER SERVICE DEPARTMENT for Carrington Mortgage Services, LLC toll free at (800) 561-4567, Monday through Friday, 8:00 a.m. to 8:00 p.m. Eastern Time. You may also visit our website at <https://carringtonms.com/>.

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CARRINGTON
MORTGAGE SERVICES, LLC

Date 11/22/2018

Loan Number : [REDACTED]

EXHIBIT A

ITEMIZED BREAKDOWN OF THE TOTAL AMOUNT DUE

PRINCIPAL & INTEREST	26	PAYMENT(S) @	\$357.62	\$9,298.12
ESCROW	4	PAYMENT(S) @	\$384.92	\$1,539.68
ESCROW	12	PAYMENT(S) @	\$383.17	\$4,598.04
ESCROW	10	PAYMENT(S) @	\$369.67	\$3,696.70
UNCOLLECTED LATE CHARGES				\$357.50
PROPERTY INSPECTION FEE				\$415.00
FIELD CHASE FEE				\$45.00
PROPERTY INSPECTION				\$140.00
FCL ATTORNEY FEES				\$690.00
FCL TITLE FEES				\$150.00
LESS: FUNDS IN UNAPPLIED				\$672.38
TOTAL				\$20,257.66

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STATE OF MAINE
OXFORD, ss.

DISTRICT COURT
SOUTH PARIS
CIVIL ACTION
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.

PLAINTIFF

v.

CAMILLE J. MOULTON

DEFENDANT

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT**

This Matter is before the Court on Defendant's Motion for Summary Judgment. In order to prevail, the moving party in a motion for summary judgment must present evidence which establishes "that there is no genuine issue as to any material fact" and that the moving party "is entitled to judgment as a matter of law." M. R. Civ. P. 56(c). When reviewing a motion for summary judgment, the court must review the evidence in the light most favorable to the non-moving party, in this case, the Plaintiff. *Northstar Capital Acquisition, LLC. V. Victor*, 2009 ME 129, ¶ 8, 984 A. 2d 1278, 1280. If factual issues remain, the summary judgment must be denied. *Id.* at ¶11.

In the present case, the Defendant limits her basis for summary judgment to the sufficiency of the notice of default and right to cure, and specifically of 14 M.R.S. §6111, § 1-A (B and C) which reads as follows:

“1-A. Contents of notice. A mortgagee shall include in the written notice under subsection 1 the following:

- B. An itemization of all past due amounts causing the loan to be in default and the total amount due to cure the default;
- C. An itemization of any other charges that must be paid in order to cure the default;”

. A review of the Plaintiff’s Affidavit, together with the attached exhibits, reveal that it complies with the statute, or at the very least, creates an issue of material fact that will preclude the entry of summary judgment in this case.

Under the statute, the notice of default must include “[a]n itemization of all past due amounts causing the loan to be in default *and* the total amount due to cure the default;” *Id.*, (emphasis added). The statute clearly anticipates that sometimes the two amounts may differ. The past due payments causing the loan to be in default include the loan payment due for October 2016. Plaintiff’s Additional Statement of Material Facts (hereinafter PASF) ¶¶ 16 & 17. Although Defendant’s last payment of \$720.00 was not sufficient to pay a full monthly payment of \$742.54 (PASF ¶14) \$47.62 of that payment was combined with the previous suspense balance credit to pay the full payment for September 2016, and leaving a new suspense balance credit of \$672.62. PASF ¶ 16. Under the terms of the mortgage, when a payment is received, it may be applied to “the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full.” PASF ¶ 15, and page 4, ¶ 2 of the mortgage (Exhibit C attached to Defendant’s Statement of Material Facts). Because the remaining suspense balance credit of \$672.62 from Defendant’s last payment of \$720.00 was insufficient to pay the October 2016 monthly payment, that full payment

remained past due, and was part of “all past due amounts causing the loan to be in default” 14 M.R.S. §6111(1-A) (B). On the other hand, the suspense balance credit would not be included in amounts that caused the loan to be in default.

The Notice of Default instructs the Defendant to refer to Exhibit A “for the itemized breakdown for the total amount due.” PASF ¶ 18 and Exhibit 3. Exhibit A of the Notice of Default provides a breakdown of all past due amounts that caused loan to be in default and also includes the suspense balance credit of \$672.62 which, when applied to the amounts that caused the loan to be in default (\$20,930.04), establishes the total amount due of \$20,257.66 to bring the loan current. PASF 18, 20 and Exhibit 3.

Defendant’s reliance upon *Mechanics Savings Bank v. Bellisle*, MESUP, AUBSC-RE-15-17 is misplaced. The court there found that the notice of default was non-compliant because it contained language in the notice that stated or implied that future amounts that may become due must be paid to cure the default. *Id.* That is not the case here. In fact, the notice of default expressly states: “The total amount due does not include any amounts that become due after the date of this notice.” PASF ¶ 17 and Exhibit 3 ¶ 1.

Defendant has raised no other challenges to the notice of default. Contrary to Defendant’s claims. Plaintiff’s notice of default fully complies with the terms of §6111, and specifically 14 M.R.S. § 6111(1-A)(B & C). Plaintiff has provided the amounts that caused the loan to be in default, and the breakdown in Exhibit A includes the suspense balance credit which, while not an amount that causes the loan to be in default, is a proper credit against those amounts to establish

the total amount due to bring the loan current. Plaintiff has established that Plaintiff's notice of default is compliant with the statute and Plaintiff respectfully requests that Defendant's Motion for Summary Judgment be denied.

Respectfully submitted,

Dated: September 27, 2021

By: 

William B. Jordan, Esq., #461

Attorney for Plaintiff

Email address for Electronic Service upon
Plaintiff pursuant to M.R.Civ.P. 5(b)(2):

MERule5@logs.com

Korde & Associates, P.C.
707 Sable Oaks Dr., Suite 250
South Portland, ME 04106

STATE OF MAINE
OXFORD, ss

DISTRICT COURT
SOUTH PARIS
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.,

PLAINTIFF

v.

CAMILLE J. MOULTON,

DEFENDANT

DEFENDANTS' REPLY TO PLAINTIFF'S
OPPOSITION TO DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT

NOW COMES the Defendant, Camille J. Moulton, by and through her undersigned counsel, and hereby replies to Plaintiff's, J.P. Morgan Mortgage Acquisition Corp., Opposition to Defendants' Motion for Summary Judgment. In support of her motion, the Defendant states as follows:

Scope of Defendant's Motion for Summary Judgment

The Defendant's Motion for summary judgement is based upon the insufficiency of the notice of the default and right to cure under *14 M.R.S. §6111(1)* and (1-A)(B), not just *§6111(1-A)(B)*. Read together *§6111(1)* and (1-A)(B), effectively freezes the payoff amount during the cure period, because the amount due as stated in the notice of default is the precise amount that the mortgagor has thirty-five days to pay in order to cure the default. *Greenleaf*, 2014 ME 89, ¶ 31, 96 A.3d 700. In light of the purposes served by *§6111* and the Law Court's "clear directive that foreclosure plaintiffs must strictly comply with all statutory foreclosure requirements" the total amount that must be paid in order to cure the default must be accurate and without ambiguity as to what amount the mortgagor must pay. *Id.*; citing *Higgins*, 2009ME 136, ¶ 11, 985 A.2d 508; *Camden Nat'l Bank v. Peterson*, 2008 ME 85, ¶ 21, 948 A.2d 1251.

Conformity of Cure Amount and Itemization

Contrary to the Plaintiff's contention that §6111 does not anticipate that the itemization of all past due amounts causing the loan to be in default and the total amount due to cure the default could ever be different. "The Maine Legislature could hardly have intended to force lenders to send notices itemizing the amounts for the borrowers right to cure to the borrower while also allowing lenders to foreclose even if those amounts are inaccurately inflated." *United States Bank Trust, N.A. v. Jones*, 330 F. Supp. 3d 530, 537 (D. Me 2018), *aff'd*, 925 F.3d 534 (1st Cir. 2019); *See also Greenleaf* at ¶30. Rather the itemization is intended to provide clarity as to how the total amount due to cure the default was calculated, and "signal to lenders, servicers and their attorneys that they must be thorough and meticulous when pursuing foreclosures in order to prevent a claim-preclusive judgment in favor of the borrower". *Id* at 537-38. An overstatement of the amount that the must be paid to cure a default in a notice of default and right to cure letter fails to adhere to the statutory foreclosure requirements and precludes the lender from obtaining a judgment of foreclosure. *Id* at 530.

Even if the court accepted the Plaintiff's argument regarding the stated total amount due to cure the default, the Notice would still fail to comply with §6111 because of the ambiguity within the Notice as to the amount the Defendant had to pay to cure the Default. *Greenleaf* at ¶31; *JPMorgan Chase Bank, N.A. v. Lowell*, 2017 ME 32, ¶¶ 19-21, 156 A.3d 727. The Law Court has found that a notice of default is defective if where the reader could have interpreted the language as requiring a payment that was more than actually required in order to cure the default. *Jones* at 538; citing *Lowell* at ¶¶ 19-21. The Notice states on its first page that "As of the date of this letter, the total amount to cure the default is \$20,930.04." whereas the Exhibit A attached to the Notice entitled "Itemized Breakdown of the Total Amount Due (the "Itemization") provides for a total of \$20,257.66. *Defendant's Statement of Material Facts ("DSMF") Exhibit F, Page 1, ¶ 1 and Page 5*. The Plaintiff offers eight statements of material

fact in order to explain what the total amount due to cure the default in the Notice was, and why there are different stated total amounts due to cure the default. *Plaintiff's Opposing Statement of Material Facts and Statements of Additional Material Facts* ("PASF") ¶¶ 13-20; *PASF Affidavit of Lender* ¶10. Where different cure amounts are present within a notice to cure it cannot be found to provide a precise amount that the mortgagor has thirty-five days to pay in order to cure the default, and therefore does not strictly comply with §6111. *Greenleaf* at ¶31; *Lowell* at ¶¶ 19-21.

Plaintiff also suggests that *Mechanics Savings Bank v. Bellisle*, 061516 MESUP, AUBSC-RE-15-017 is inapplicable because it was decided on language within the notice that stated additional amounts might be required to be paid in order to cure the default. However, Defendant's reference to *Bellisle* was based upon its affirmation of the holding in *Greenleaf* that a precise amount to cure the default must be stated in the notice, and that if conflicting statements within the notice created ambiguity as to what the cure amount was than the statutory requirements were not met. *Bellisle* at §III(A) and footnote 1; See also *Greenleaf* at ¶31; *Lowell* at ¶¶ 19-21.

Plaintiff's Opposing and Additional Statement of Material Facts

In an attempt to rehabilitate the defective Notice the Plaintiff's conflates the terms "all past due amounts causing the loan to be in default" and "the total amount due to cure the default" 14 M.R.S. §6111(A-1)(B). The Notice incorrectly stated that the total amount due to cure the default was \$20,930.04. *DSMF* ¶ 9; *DSMF Exhibit F, Page 1, ¶ 1*. However, \$20,930.04 was actually the total amount of all past due amounts causing the loan to be in default. *DSMF* ¶¶ 9-12; *DSMF Exhibit F, Page 1, ¶ 1 and Page 5; PASF* ¶¶ 13-20; *PASF Affidavit of Lender* ¶10. "...all past due amounts causing the loan to be in default" refers to what must be included in the itemization, which illustrates what payments and fees are past due to demonstrate how the total amount to cure the default was

calculated. *14 M.R.S. §6111(A-1)(B) and (C); Lowell at ¶13.* "...the total amount due to cure the default," refers to a specific amount stated in the notice that the mortgagor must pay in order to cure the default. *14 M.R.S. §6111(1) and (A-1)(B); Greenleaf at ¶31; Lowell at ¶13.* The purpose of the notice of default and right to cure is to put a mortgagor on notice of its default and inform the mortgagor of their right to cure the default "by full payment of all amounts that are due without acceleration" *14 M.R.S. §6111(1) and (A-1)(B); Greenleaf at ¶¶30-31.*

Plaintiff in its *PASF* denied *DSMF* ¶¶ 9, 11, and 12, which stated that the total amount due to cure the default stated in the Notice was \$20,930.04; that the total amount due listed in the Itemization was \$20,257.66; that those two numbers are different; and that the total amount due to cure the default stated in the Notice was greater than the total amount due listed in the Itemization. *DSMF 9- 12; DSMF Exhibit F, Page 1, ¶ 1; and Page 5; PASF ¶¶ 9, 11, and 12; and PASF Affidavit of Lender ¶10.* Plaintiff also asserts additional statements of material fact *PASF* ¶¶ 13-20 as though they are alternative to *DSMF 9, 11, and 12.* The facts set forth in *DSMF* ¶¶ 9, 11, and 12, and the facts set forth in *PASF* ¶¶ 13-20 do not conflict with one another. The additional facts set forth in *PASF* ¶¶ 13-20 provide an explanation as to the calculation of all past due amounts that caused the loan to be in default and how the "Funds in Unapplied" that Plaintiff refers to as the suspense balance were applied. However, these additional facts do not change the plain language of the Notice. Plaintiff's denial of *DSMF* ¶¶ 9, 11, and 12 is based upon Plaintiff's argument that although the Notice states: "As of the date of this letter, **the total amount to cure the default is \$20,930.04.** Please refer to the attached Exhibit A for the itemized breakdown of the total amount due," it should be read as: The past due amounts that caused the loan to be in default total \$20,930.04, please refer to Exhibit A for the itemized breakdown **and** for the total amount due. *DSMF* ¶¶ 9, 11, and 12; *DSMF Exhibit F, Page 1, ¶ 1; PASF* ¶¶ 13-20; *PASF Affidavit of Lender ¶10* (Emphasis Added). The Plaintiff suggests the court should disregard the plain language in

the Notice that “the total amount to cure the default is \$20,930.04” because it admits that \$20,930.04 is not the correct total amount due to cure the default. *DSMF Exhibit F, Page 1, ¶ 1; PASF ¶¶ 18-20; PASF Affidavit of Lender ¶10*. Furthermore, the Plaintiff’s assertion the Notice instruct the Defendant to refer to the Itemization for the total amount due to the cure the default is inaccurate. *DSMF Exhibit F, Page 1, ¶ 1 and Page 5; PASF ¶¶ 18-20; PASF Affidavit of Lender ¶10*. The Notice references the Itemization as a breakdown of the total amount due, but does not suggest that the actual amount due to cure the default would somehow augment the previously stated cure amount. *Id.* Ultimately, the Notice stated that the Defendant must pay the incorrect amount in order to cure the default. *DSMF Exhibit F, Page 1, ¶ 1*. Although the Itemization provided the correct breakdown of the total past due amount and the correct total amount to cure the default, it at best created ambiguity as to what amount the Defendant must pay to cure the default and does not fix the incorrect amount to cure the default stated in the body of the Notice. *DSMF Exhibit F, Page 1, ¶ 1 and Page 5*.

Conclusion

The Notice fails to provide a precise amount due to cure the default, because the Notice states a cure amount that exceeds the amount the Defendant would need to pay in order to cure the default. *DSMF ¶¶ 7, 9-12; and DSMF Exhibit F, Page 1, ¶1 and Page 5; Jones at 530*. The Notice states that Defendant must pay \$20,930.04, while Plaintiff’s own calculations provided in the Notice’s Itemization provides that the actual amount the Defendant needed to pay to cure the default was \$20,257.66. *Id.* A lack of a precise cure amount in the Notice does not strictly comply with the notice requirements set forth in §6111(1) and (1-A)(B). *Greenleaf at ¶ 31*. Therefore, Plaintiff cannot prevail in its action for foreclosure, and Defendant is entitled to a judgment as a matter of law.

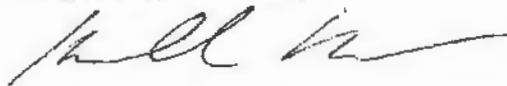
The Notice further fails to provide a precise cure amount because of the ambiguity due to

conflicting amounts within the Notice, *DSMF* ¶¶ 7, 9-12; and *DSMF Exhibit F Page 1, ¶ 1, and Page 5*; and *PASF* ¶ 20; *Lowell* at ¶¶ 19-21. The Itemization of what was past due as of the date of the Notice, as discussed above, provides a different total amount due than the total amount due stated on the first page of the Notice, this creates ambiguity as to what must be paid to cure the default. *Id.* As a result of the ambiguity as to what must be paid in order to cure the default the Notice fails to provide a precise cure amount, and therefore does not strictly comply with the notice requirements set forth in §6111. *Id.*; see also *Greenleaf* at ¶ 31. Therefore, Plaintiff cannot prevail in its action for foreclosure, and Defendant is entitled to a judgment as a matter of law.

WHEREFORE, Defendant respectfully request this Honorable Court enter judgment for the Defendant and against Plaintiff on Plaintiff's Complaint for Foreclosure; declare that Defendant hold title to the Premises unencumbered by the Mortgage and Promissory, grant the Defendant her reasonable attorney's fees and costs; and such other and further relief as the Court deems just.

Dated at Turner, this 7 day of October, 2021.

Respectfully submitted,



Kendall A. Ricker, Esq. BRN #5342
Attorney for Defendant

Boothby, Silver & Ricker, LLC
22 School House Hill Road
PO BOX 216
Turner, Maine 04282
(207) 225-5044
kendall@boothbysilver.com

STATE OF MAINE
OXFORD, ss

DISTRICT COURT
SOUTH PARIS
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.,

PLAINTIFF

v.

CAMILLE J. MOULTON,

DEFENDANT

DEFENDANT'S MOTION IN OPPOSITION
TO PLAINTIFF MOTION TO DISMISS AND
INCORPORATED MEMORANDUM OF LAW

NOW COMES the Defendant, Camille J. Moulton, by and through her undersigned counsel, and moves this Honorable Court deny Plaintiff, J.P. Morgan Mortgage Acquisition Corp.'s Motion to Dismiss. In support of her request, the Defendant states as follows:

1. Plaintiff's Complaint was filed on January 24, 2019.
2. Defendant's Response to Complaint and Request for Mediation was filed on February 5, 2019.
3. Mediations were held on March 13, 2019, May 15, 2019, and August 20, 2019.
4. A Scheduling Order was entered on August 21, 2019.
5. On February 18, 2020, a Trial Management Conference was held and a Pre-Trial Order was filed.
6. A bench trial was scheduled for May 15, 2020 at 9:30 a.m.
7. Thereafter, a series of Motions to continue, and Motions to stay, the hearing were filed in response to the CARES Act moratorium and travel restrictions that would affect potential witnesses ability to attend a hearing.
8. On March 2, 2021 Plaintiff filed a motion to extend stay and extend scheduling order

deadlines.

9. The Court granted Plaintiff's motion to extend stay and extend scheduling order deadlines by order dated April 8, 2021, which extended the Stay through June 30, 2021 and extended the Scheduling Order Deadlines to September 30, 2021.
10. Plaintiff filed a Motion to Dismiss on August 23, 2021.
11. Defendant retained Counsel on August 27, 2021.
12. An Entry of Appearance for Defendant's Counsel has been filed concurrently with this motion.
13. Defendant has filed a Motion for Summary Judgment concurrently with this motion.

MEMORANDUM OF LAW

Rule 41(a)(2) of Maine Civil Procedure states, "Except as provided in paragraph (1) of this subdivision of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper." "... plaintiffs should no longer have the tactical ability to impose expense and delay on other parties ... by dismissal after extensive pretrial proceedings have taken place." *M.R. Civ. Rule 41(a)(1), Advisory Committee's Notes 1989*. Where an answer or motion for summary judgment has been filed by a defendant, and the defendant objects to a dismissal, it is within the courts discretion to grant or deny the motion to dismiss and whether or not the dismissal is with prejudice, or without prejudice, subject to such terms and conditions as the court deems proper. *Nationstar Mortg., LLC v. Halfacre (Me. Super. 2017)*; *Pat Doe v. Hills-Pettitt, 243 A.3d 461, 466 (Me. 2020)*; *Citing Green Tree Servicing, LLC v. Cope, 2017 ME 68, ¶ 16, 158 A.3d 931*. Denying a plaintiff's motion to dismiss without prejudice and proceeding on a

defendant's motion for summary judgment is proper in a foreclosure action where the case may be decided on the merits. *First Fin., Inc. v. Morrison*, 210 A.3d 811, 814, ¶ 13 (Me. 2019); Citing *U.S. Bank Trust, N.A. v. Mackenzie*, 2016 ME 149, ¶ 11 n.6, 149 A.3d 267; *Wells Fargo Bank, N.A. v. Girouard*, 2015 ME 116, ¶¶ 7-11, 123 A.3d 216.

Here, an answer has been filed by the Defendant. The parties have participated in multiple mediation over several months, during which time Defendant repeatedly attempted to satisfy Plaintiff's loan modification application requirements. Subsequent to the mediations the case was returned to the foreclosure docket and a scheduling order was issued. The parties attended a pre-trial status conference in preparation for proceeding to trial. The Court's pre-trial order indicated that discovery was completed and that the parties were prepared to proceed to trial, and a trial date had been set for this matter. If not for the CARES Act, a trial in this matter would likely have already occurred. A dismiss without prejudice at this juncture would result in the last two years of the parties' efforts, and the judicial resources expended, in this matter to have been wasted, with the most likely course of events being the Plaintiff proceeding with a new foreclosure action against the Defendant. The subsequent action would inevitably result in duplicative proceedings requiring additional judicial resources being dedicated to this matter, and requiring Defendant to expend additional time and resources on this matter in order to get back this same stage of the proceedings where this matter currently stands. A dismissal at this late date runs counter to the principals of judicial economy, prejudices the Defendant and provides the Plaintiff yet another bite at the foreclosure apple. "Equity does not require the court to give plaintiff another chance." *Nationstar Mortg., LLC v. Halfacre* (Me. Super. 2017). Denying Plaintiff's motion to dismiss and proceeding on Defendant's motion for summary judgment is proper in a foreclosure action where

the Defendant seeks a judgment on the merits. *First Fin., Inc.*, at 814, ¶ 13.

WHEREFORE, The Defendant respectfully requests that this Honorable Court deny the Plaintiff's motion to dismiss this action without prejudice, or in the alternative to dismiss this action with prejudice; and grant such other and further relief as the Court deems just.

Dated at Turner, this 8 day of September, 2021.

Respectfully submitted,



Kendall A. Ricker, Esq. BRN #5342
Attorney for Defendant

Boothby, Silver & Ricker, LLC
22 School House Hill Road
PO BOX 216
Turner, Maine 04282
(207) 225-5044
kendall@boothbysilver.com

STATE OF MAINE
OXFORD, ss

DISTRICT COURT
SOUTH PARIS
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.,

PLAINTIFF

v.

CAMILLE J. MOULTON,

DEFENDANT

DEFENDANT CAMILLE J. MOULTON'S
AFFIDAVIT IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT

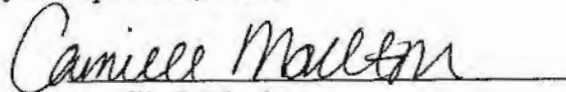
I, Camille J. Moulton, of 52 Morrill St. Buckfield, Maine, being duly sworn, make this affidavit for the purpose of accompanying Defendant's Motion for Summary Judgment with Incorporated Memorandum of Law, and state as follows:

1. I am over the age of 18 years old. I am a resident of Buckfield, Oxford County, Maine. I make the statements herein based on my personal knowledge.
2. I am the defendant in the above-captioned matter.
3. I have retained Kendall A. Ricker, Esq., of Boothby, Silver & Ricker, LLC, to represent me in this matter against the Plaintiff pending before this Court.
4. I am an individual residing at 52 Morrill St. Buckfield, Maine.
5. I signed a certain promissory note dated March 18, 2009 in favor of Taylor, Bean & Whitaker Mortgage Corp. (hereinafter referred to as the "Promissory Note" or "Note").
6. The copy of the Promissory Note attached as Exhibit B to Defendants' Statement of Material Facts in Support of Motion for Summary Judgment of even date (hereinafter referred to as the "DSMF") is a true and accurate copy of said Promissory Note.

7. I signed a certain mortgage in favor of Mortgage Electronic Registration Systems, Inc. as nominee for Lender, and Taylor, Bean & Whitaker Mortgage Corp. as Lender dated March 18, 2009 and recorded in the Oxford County Registry of Deeds in Book 4418, Page 275 (hereinafter referred to as the "Mortgage").
8. The copy of the Mortgage attached as Exhibit C to the DSMF is a true and accurate copy of said Mortgage.
9. On information and belief, the Assignment of Mortgage to J.P. Morgan Mortgage Acquisition Corp. from Mortgage Electronic Registration Systems, Inc. as nominee for Taylor, Bean & Whitaker Mortgage Corp. dated March 21, 2018 and recorded in the Oxford County registry of Deeds in Book 5400, Page 157, attached as Exhibit D to the DSMF is a true and accurate copy of said Assignment of Mortgage.
10. On information and belief, the Quitclaim Assignment to J.P. Morgan Mortgage Acquisition Corp. from Taylor, Bean & Whitaker Mortgage Corp. dated October 24, 2018 and recorded in the Oxford County Registry of Deeds in Book 5440, Page 831, attached as Exhibit E to the DSMF is a true and accurate copy of said Quitclaim Assignment.
11. The property that the Mortgage encumbers is 52 Morrill St. Buckfield, Maine (hereinafter referred to as the "Premises"), which my primary residence.
12. I received a letter from Plaintiff dated November 22, 2018 entitled "Notice of Right to Cure" (hereinafter referred to as the "Notice").
13. A true and accurate copy of the Notice is attached to the DSMF as Exhibit F.
14. I have not received any other notice of right to cure letter from the Plaintiff.
15. I was served with Plaintiff's Complaint for Foreclosure by Civil Action (hereinafter referred to as the "Complaint") on January 29, 2019.

16. A true and accurate copy of the Complaint is attached to the DSMF as Exhibit G. The exhibits to the Complaint have been omitted to avoid duplication.

Signed under the penalties of perjury this 8 day of September, 2021.



Camille J. Moulton

STATE OF MAINE
COUNTY OF ANDROSCOGGIN

September 8, 2021

Then personally appeared the above-named Camille J. Moulton who, under penalty of perjury, subscribed and swore to the truth of the facts in the foregoing affidavit.

Before me,


Notary Public/Attorney-at-Law

Print Name: Kendall A. Ricketts, Esq. MBN: 5342
Commission Expires: _____

STATE OF MAINE
OXFORD, ss.

DISTRICT COURT
SOUTH PARIS
CIVIL ACTION
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.

PLAINTIFF

v.

CAMILLE J. MOULTON

DEFENDANT

AFFIDAVIT OF LENDER

The undersigned, being duly sworn, deposes and says as follows:

1. My name is Elizabeth Gonzales. I am a Default Fulfillment Manager of Carrington Mortgage Services, LLC ("Servicer"), servicer for J.P. Morgan Mortgage Acquisition Corp. ("the Plaintiff"). The Servicer has the authority to act on behalf of the Plaintiff in connection with this loan, to execute any related instruments and to submit this Affidavit. The Servicer's duties, as servicing agent for Plaintiff, include monitoring account balances; receiving and crediting payments; recording events of default; issuing account notices and information, including demand, right to cure and acceleration notices; receiving and recording curative payments; calculating unpaid principal and interest, fees, penalties, assessments and other amounts due from borrowers; and initiating and managing foreclosure proceedings.

2. The Plaintiff is the holder of the note and mortgage described in paragraphs 5 and 7 of this Affidavit. I have personally reviewed the records relating to the mortgage transactions with respect to said note and mortgage. My knowledge as to the facts set forth in this Affidavit is derived from that personal review and my personal knowledge of this account and of the records kept by the Servicer on behalf of the Plaintiff respecting this account. It is also derived from my direct involvement in the daily operations of the Servicer and from my personal knowledge of how such records are created, kept, received from other entities (where applicable) and verified for accuracy and completeness. Finally, it is derived from my training, experience and knowledge of the Servicer's business practices and the business practices of financial institutions and the loan servicing industry surrounding the transfer, reception

and verification of, and reliance on, business records when loans or loan servicing rights are bought and sold or otherwise transferred.

3. Based on the foregoing, I can assert that the records of this account are kept in the ordinary course of business by the Servicer on behalf of the Plaintiff, pursuant to the Servicer's regular practice of making such records, and were made at or near the time of the transactions by, or from information transmitted by, a person with knowledge of the facts set forth in said records. These records are created and kept in electronic form in the ordinary course of business of the Servicer as the Plaintiff's servicing agent and are relied upon by the Servicer after verification as referenced hereinabove. It is a customary business practice of financial institutions to maintain accurate business records respecting the loans they originate or acquire and to provide such records to those acquiring or servicing the loans. To the extent that the business records were created by others, including prior holders and/or servicers of said note and mortgage, those records have been integrated into the Servicer's business records and verified in accordance with the Servicer's policies and procedures and are kept and relied upon as a regular business practice and in the ordinary course of business conducted by the Servicer.

4. In order to protect the borrower's privacy, certain personal information of the borrower (such as loan, account, Social Security and telephone numbers and birth dates), may have been partially or completely redacted on the exhibits to this Affidavit. Except as provided in the preceding sentence, the exhibits attached hereto, which I have personally examined, are true copies of the original documents.

5. When a borrower makes a full monthly payment, it is reflected as a full payment for the earliest outstanding payment due. If a partial payment is made, the outstanding monthly payment is not fully paid, and therefore still remains outstanding and in default. The insufficient payment remains as a credit against the total debt in the borrower's loan history as a suspense balance. If or when the borrower makes another payment, part of the new payment will be used to combine with the suspense balance to make a full payment of the earliest outstanding unpaid monthly loan payment. Any remaining funds from the new payment, if insufficient to make the next monthly payment, will remain as the new suspense balance on the borrower's account. The suspense balance may be used to pay late charges or other charges as set forth in the mortgage. These principles apply to the loan in this case. See mortgage, page 4, ¶2

6. Camille J. Moulton is presently in default on the Note, having failed to make the monthly payment due October 1, 2016, and having failed to make all payments due thereafter, thereby breaching a condition of the Mortgage. A record evidencing said default is reflected in the relevant portion of Camille J. Moulton's loan history, attached hereto as Plaintiff's Exhibit 1.

7. Camille J. Moulton's last payment on the loan was a check in the amount of \$720.00 dated 11/18/2016. See Plaintiff's Exhibit 2. At that time, the regular monthly payment of principal, interest and escrow was \$742.54, and the earliest unpaid monthly payment was for the one due for September 2016. Plaintiff's Exhibit 2. When the payment was received, there was a prior existing suspense balance of \$694.92 on the account. Upon receipt of the \$720.00, \$47.62 of that payment was added to the existing suspense balance of \$694.92 to fully pay the September 2016 monthly payment of \$742.54. After deducting the \$47.62 from the \$720.00 check to apply to the September 2016 payment, \$672.38 remained and became the new suspense balance.

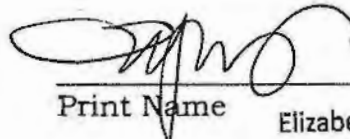
8. By letters dated November 22, 2018, Camille Moulton was provided notice that the Note was in default and of the right to cure the default, and payment thereon was demanded. Copies of said notices are attached hereto as Exhibit 3.

9. The notices were given by first class mail, postage prepaid with a United States Postal Service certificate of mailing on November 24, 2018, and therefore expired on January 1, 2019.

10. The amount of \$20,930.04 on the first page of the notice of default shows the total amount of past due monthly payments from October 1, 2016 to November, 2018, as well as other charges that are due. The first paragraph explicitly refers to the attached Exhibit A for the total amount due. Exhibit A specifically includes the suspense credit balance which was insufficient to fully pay the October 2016 monthly payment. That credit is applied to the \$20,930.04 to achieve the total amount due of \$20,257.66.

11. Camille J. Moulton has not paid anything on the loan since the \$720.00 check received on November 21, 2016.

Dated this 27th day of September, 2021.



Print Name

Elizabeth Gonzales
Default Fulfillment Manager

Title

STATE OF

COUNTY OF

Personally appeared before me the above-named _____ who swore to the truth of the foregoing statements based on personal knowledge of the foregoing, this _____ day of _____, 2021.

Notary Public

My Commission Expires: _____

18-025535

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA COUNTY OF Orange
Subscribed and sworn to (or affirmed) before me on this 27 day of September 2021 by Elizabeth Gonzales
proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Jeanette M. Vargas
(Signature of Notary)



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REVISED APPENDIX 94

[illegible]

Date Transmitted	Statement Account Number	Amount Applied	Batch Number	Sequence Number	Processing Site
11/21/2018	2303	\$720.00	510	152	Phoenix
1 of 1 + 100% 					

Apply to account: 2303

CAMILLE MOULTON

64-79
611

DATE
11/18/2016

2873

8885

†Pay Solutions
PO BOX 258819
OKLAHOMA CITY, OK 73125-8819
Phone: 866-851-4729 ext 705520

~~\$720.00~~

PAY
TO
THE
ORDER
OF

~~SEVEN HUNDRED TWENTY DOLLARS AND NO/100~~

CARRINGTON MORTGAGE SERVICES L L C

AMOUNT

**\$720.00

Lene Swearingen

Void After 90 Days

EXHIBIT

2

CROSS-REFERENCE PAGE FOR EXHIBITS TO AVOID DUPLICATION

Pursuant to M. R. App. P. 8 (c) and 8 (h) 3, the following exhibits referred to and appended to this document appear *elsewhere* in the Appendix cross-referenced by Exhibit No. as follows:

EXHIBIT 3 – The Default and Cure Notice (A. 67)

STATE OF MAINE
OXFORD, SS.

DISTRICT COURT
SOUTH PARIS
CIVIL ACTION
DOCKET NO. RE-19-02

J.P. Morgan Mortgage Acquisition
Corp.
v.
Camille J. Moulton

**RESPONSE TO
COMPLAINT AND
REQUEST FOR
MEDIATION**

Important Notice to Homeowner

A foreclosure case has been filed against you in court. **You will probably lose your home if you do not file a written Response within 20 days.** You can use this form as your Response. Just fill out this form and return it to the court in the enclosed envelope so that the court receives it **before the 20-day deadline.** Mail a copy to the lender's lawyer. You can attach additional sheets if this form does not give you enough space.

1. Your Response

To protect your rights in this case, you must file a response. You can file a response by checking the box below. Fill in your address, if it is not already stated.

☒ I live at and own the building at 52 Morrill St Buckfield ME 04220
I believe there are good reasons I should not lose my home to foreclosure. I deny at least some of the lender's statements in the foreclosure complaint. I assert all affirmative defenses that apply to my case.

2. Your Right to Mediation

You have the right to meet with your lender and a neutral third party. This free meeting gives you the chance to talk about how you might avoid foreclosure – before a judge hears your case. This is called a “mediation” meeting. At the meeting a neutral court mediator will help you and the lender try to come to an agreement. The mediator will not force you to accept an agreement.

When you return this form to the court, the court clerk will schedule you for a mediation meeting.

Camille Moulton
(Your Signature)
Camille Moulton
(Your Name, Printed)
52 Morrill St
(Address)
Buckfield ME 04220
(City, State, Zip)
207-576-4982
(Phone Number)

BPSC/DC/OXFCD
FEB 5 '19 PM1:59

STATE OF MAINE
OXFORD, ss.

DISTRICT COURT
SOUTH PARIS
CIVIL ACTION
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.

PLAINTIFF

v.

CAMILLE J. MOULTON
DEFENDANT

PLAINTIFF'S WITNESS AND EXHIBIT LIST

Estimated time for Trial:

Plaintiff estimates that the trial will take no more than thirty minutes.

Request for Special Assignment:

Plaintiff's Primary witness must travel from out-of-state and Plaintiff therefore request that this case be specially assigned for trial and the Plaintiff be given thirty days' notice of the trial date.

Plaintiff's Witnesses:

1. A representative of Carrington Mortgage Services, LLC capable of testifying concerning this mortgage and the records of the company and information contained therein.

1600 South Douglass Road
Suite 200-A
Anaheim, CA 92806

2. Defendant

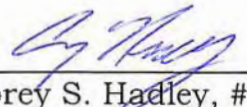
Plaintiff's Exhibits:

1. Promissory Note
2. Mortgage

3. Assignments of Mortgage
4. Quitclaim Assignment
5. Limited Power(s) of Attorney
6. Documentation of Notice of Default
7. Documentation of Amounts Owed
8. Documentation of Ownership of the Loan
9. Documentation of Loss Mitigation History of the Loan

Plaintiff reserves the right to utilize additional witnesses and exhibits upon reasonable notice to Defendant.

November 11, 2019



Corey S. Hadley, #5014
Attorney for Plaintiff
Email address for Electronic Service upon
Plaintiff pursuant to M.R.Civ.P. 5(b)(2):
MERule5@logs.com

KORDE & ASSOCIATES, P.C.
707 Sable Oaks Dr.
Suite 250
South Portland, ME 04106
(207) 775-6223

18-025535

STATE OF MAINE
OXFORD, ss

DISTRICT COURT
SOUTH PARIS
DOCKET NO. SOPDC-RE-19-2

J.P. MORGAN MORTGAGE ACQUISITION
CORP.,

PLAINTIFF

v. .

CAMILLE J. MOULTON,

DEFENDANT

DEFENDANT'S WITNESS AND EXHIBIT
LIST

NOW COMES the Defendant, Camille J. Moulton, by and through her undersigned counsel, and designate the following witnesses and exhibits that she intends to present at hearing in this matter:

WITNESSES

1. Camille J. Moulton, Defendant; and
2. Any witness listed by Plaintiff.

Defendant reserves the right amend and to call additional witnesses with notice and reserves the right to call any witnesses identified by any other party. Defendant reserves the right to call rebuttal witnesses.

EXHIBITS

Defendant intends to introduce the following exhibits:

1. Promissory Note
2. Mortgage
3. Assignment of Mortgage
4. Quitclaim Assignment

5. Notice of Default and Right to Cure Letter
6. Complaint
7. Monthly Mortgage Statement
8. Letters from Plaintiff to Defendant
9. Letters from prior servicers of the Mortgage to Defendant
10. Receipts for payments made to Plaintiff or its predecessors in interest from Defendant
11. Defendant's Request to modify the mortgage and related documents.

Defendant reserves the right to supplement this list upon reasonable notice to the other party prior to trial and the right to introduce any exhibit that was provided by either party during discovery and to offer additional exhibits in rebuttal.

Dated at Turner, Maine, this 8 day of September, 2021.

Respectfully submitted,



Kendall A. Ricker, Esq., ME Bar # 5342
Attorney for Defendant
Boothby, Silver & Ricker, LLC
22 School House Hill Rd., P.O. Box 216
Turner, ME 04282
Tel: (207) 225-5044
kendall@boothbysilver.com